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Details of the Arrest, Imprison-
ment and Liberation, of an English-
man, Sir John Bowring

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MR. BOWRING'S

DETAILS

OF HIS

Arrest, Imprisonment, and Liberation.



DETAILS
OF
THE ARREST, IMPRISONMENT
AND
LIBERATION,
OF
AN ENGLISHMAN,
Sir John Bowring
BY
THE BOURBON GOVERNMENT
OF FRANCE.

LONDON:

SOLD BY ROWLAND HUNTER, ST. PAUL'S CHURCH-YARD;
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Price 4s.
1823.

Br 2095.78

RICHARD TAYLOR, PRINTER,
SMOK LANE, LONDON.

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To the Right Honourable GEORGE CANNING,
His Majesty's Secretary for Foreign Affairs,
&c. &c. &c.

SIR,

I VENTURE to dedicate to you the following pages.

Whatever I may feel of surprise or of regret at the determination not to prosecute the demand against the French Government for redress on national grounds, I am bound publicly to express—and I do so with the utmost cordiality—my gratitude for those individual attentions to my family and myself, which have marked your conduct throughout.

But I owe it to myself, and I owe it to my country and to mankind, to state the facts connected with my detention, imprisonment and release.

When you directed me to prepare a case for the Government,—which case, I trust, completely removed the shifting and shadowy ground, on which the French Ca-

hinet rested the one solitary justification of their atrocity, —viz. that there were charges against me which, if proved, would have authorized their conduct,—when, long after this, you requested that I would avoid all public discussion, lest it should embarrass your proceedings,—I ventured to hope that remonstrance had been made, and that a despotic faction would be taught, that a subject of England, though absent from his country, is still protected from violence by his country's influence. I know it has been a proud triumph for the Ultras of France to have insulted an Englishman, and to have insulted him with impunity. They have not scrupled to avow this ; and the avowal was, at least, honest, though perhaps ill-timed.

Would I then precipitate my country into a vindictive war to avenge the outrages I have suffered? Not I. Neither on this, nor any other ground, could I contemplate, or would I attempt to justify, such a proceeding. I abominate all war as most unwise and most unholy. I preach no crusade against an innocent and unoffending people. France is a country crowded with beings whom I love and honour ; it has a thousand spots dear to my recollections, and is blended with some of the brightest mental associations of my earlier days. I no more think of war as a consequence of severe remonstrance for injuries done by a Government, than I should contemplate murder, in insisting on redress for the violation of legal and acknowledged rights by an individual. I believed, and still believe, that England had influence enough to obtain the reparation of grievances committed on her citizens ; I thought that an unpopular and anti-na-

tional Government, like that which now oppresses France, could not resist the strong representations of our Ministry. If the Executive power of France were truly a delegation from the national will, I know full well that our Cabinet could not have made any impression by the mere circumstance of its interference; but, on the other hand, under a Government really responsible to opinion, no such acts would be committed, nor could have to be appealed against. France is indeed humiliated in her helplessness and by her subserviency; but England, whose policy has hitherto been unfortunately too closely allied with that of the oppressors of Europe—England has had her share in the general degradation. It is right it should be so. The consequences of her foreign policy remain, as yet, undeveloped; by and by, they will burst upon her in storms and terrors, unless, led by you in a nobler path of glory, she again take her station at the head of civilization, as the advanced guard of freedom.

I have been persecuted, then—and most unjustly—by a foreign Government; and, after being haunted by spies, and tortured by secret questionings and solitary confinement; after the violation of all my papers and correspondence, and the correspondence of others; after all the machinations of busy hatred and daring violence to create or to discover crime, I am turned adrift; there is not a shadow of evidence against me—there never was in any stage of the proceedings—the very crime for which I was to be tried remains to be guessed at, and was unknown even to the Judges appointed to examine me; and I am a citizen of England.

I expect to be accused of presumption in attaching so much importance to the case—however hard—of an obscure and private individual: but every Englishman is in some respects the representative of his country; and the Englishman who is marked out by foreign aggression as its victim is peculiarly so. What are international rights, except as vested in individuals? Is any line to be drawn of rank or wealth, beneath which protection is not to descend? If you, Sir, or any other distinguished statesman, had been thrown into a dungeon, and kept there during the good pleasure of a foreign power, till some justification of the outrage should be extorted from yourself, or until it should be discovered, that no justification could be extorted, and you were then turned out of your prison-cell with the consoling communication, that you ought not to have been imprisoned at all—would you have deemed it wise or proper that your country should submit uncomplainingly to the wrong? I like forgiveness as between man and man—it controuls, it subdues injuries; but there is no magnanimity in a nation's inviting to outrages, for which it may obtain—and ought to obtain—apology and redress. The insult which has fallen on me may soon fall upon a prouder and a higher head. Can we complain? Has it not been sanctioned already?

It would be most unjust to attribute to a revengeful temper the strong expressions which I have sometimes employed. My mind, aroused by a lively sense of wrong, has been yet more excited by the pertinacity with which that wrong has been persisted in and defended. I believe

an exposition of the foul deeds of tyranny may tend to prevent a repetition of them; it may awake compunction, even if it bring about no decided reformation. Publicity is the only weapon which belongs to the weak, and it is, perhaps, the most effective at last.

On a review of all, I cannot but express my disappointment—I do not choose to use a stronger term—that an outrage so extraordinary and so unprecedented, should have been silently passed over by the British Government. A license has now been given to all despotic powers to make Englishmen the victims of any tyrannical inflictions which their good pleasure may deem it fit to exercise. England has been smitten on the right cheek, and has now turned round the other also. Self-esteem may have exaggerated the individual case, yet the national outrage was gross and flagrant. For weeks the interference of the British Ambassador was treated with contempt by that tottering and ephemeral Government, which Great Britain had been the main instrument in creating; and long after you had demanded from the French Government the motives of my arrest, you could obtain nothing but vague, unsatisfactory and verbal communications. Then, indeed, was the insult transferred from me to the English nation. Yet whatever may be the cause, I will not, I dare not, attempt to unravel it—you, distinguished, as we have been led to believe, for your high-minded dignity of character; you, who had most assuredly excited the expectation of the country, that you would support and retrieve its sinking reputation, received the

recorded acknowledgement, that I had been falsely and arbitrarily imprisoned—and then———
 I have left a blank which ought to have been otherwise filled.

I cannot pretend to divine the secrets of cabinets, nor to understand that profound and mysterious policy which is not to be measured by the common scale of right and wrong—justice and oppression, truth and falsehood:—but this I know, that there have been periods in our history, when, indeed, the glorious pre-eminence in rank, in power, in influence, which has been claimed for England in these latter days, had never been thought of;—there have been periods, I say, in our history, when it was no part of her glory to abandon her citizens to the rage of tyrants; nor to leave to posterity the record of insults she had brooked, and outrages beneath which she had bowed her head.

It is not for me to suggest in what manner reparation is obtainable. When States are in harmony with one another, I imagine such harmony implies, that all misunderstandings may easily be made the subject of amicable adjustment.

There is one subject to which I would fain refer, for it has again and again been pressed on my attention,—and I entreat you to believe that in introducing it no vain or selfish or hostile feeling influences my mind. It is the Alien Bill. That Bill—that inhospitable and un-English Bill—was constantly quoted against me in the progress of the proceedings. When I complained of their illegality and violence, I was constantly asked, “What protection from your laws has

a foreigner in England?" Could I do aught but hang down my head in silence? It was the second time that this Bill had been used to justify acts of oppression and outrage committed on my person. It was employed against me in 1820, in Spain, when I was detained by the arbitrary mandate of a petty magistrate, who, however, afterwards apologised for his mistake. The Alien Bill,—which has scarcely ever been employed at all to banish those against whom it was directed,—has been a constant weapon to be used against Englishmen by other Governments. Our own countrymen are its victims. We have forged arms, useless for our own defence, but terrible when employed against us. Few individuals have had more extensive opportunities than myself for ascertaining the general estimation of the English character through the different countries of Europe; and I may truly assert, that no one circumstance ever tended so much to diminish our national reputation, as the existence of the Alien Bill. To England—amidst the vicissitudes and calamities of political events—men were accustomed to look as to a haven, where the distant storm might be heard but dared not reach. I know the terrors of the Alien Bill have been exaggerated; but such terrors exist; and whether they have misrepresented, or not, the temper of the British Government, certain it is, that the charm of perfect confidence is broken;—this asylum, which was formerly sacred, may now be violated. Who shall guaranty to the fugitive stranger that it will not be violated? To be instrumental in removing this foul stigma on the character of

my country, I would cheerfully pass over again the days of my imprisonment, even though they had been tenfold ; and should that imprisonment lead to a repeal of this most obnoxious statute, it would be to me a proud privilege so to have suffered.

I have the honour to be, Sir,

Your most obedient humble Servant,

Hackney, Feb. 1823.

JOHN BOWRING.

DETAILS,

&c.

THERE are some persons who seem to have an instinctive sympathy with every thing that is oppressive, merely because oppression is the child of power ; they admire an arbitrary act, because it implies the existence of authority, and think violence and outrage fit and proper exercises, whenever they emanate from those who are beyond the controul of opinion. The injustice that can be contemplated and committed with impunity, is to them infinitely more attractive and more sacred than the honest and impartial administration of equitable laws. "The right of the strong" is in their view no insult, dug out of the barbarism of dark and despotic ages, but a maxim consecrated by time, and not now to be disputed or discussed. To such these pages are not addressed.

But to all besides. To men men of every party, who, though they differ on a thousand points, agree only on this,—that society should provide for the security of all who do not violate its laws, this statement appeals.

What is its object? To remove the mask of hypocritical tyranny; to dissipate the delusions which may yet exist as to the character of the *legitimate* and *paternal* government of the Bourbons; to give vent to the expression of honest indignation against despotic outrage; and to excite and quicken our love and reverence for every institution which has been erected by wisdom and virtue, against the encroachments of power or perfidy. It is fit that it should be seen on what a slender thread the security and happiness of millions are suspended. It is right that the secret underminings of a system of fraud, slander, and violence, should be exposed and recorded, that the careless and the confident may be cautioned, and the incredulous be undeceived.

I had been about a fortnight at Paris. The object of my visit was purely commercial. My intercourse with some of the noblest and most highly gifted minds of France, could not, I well knew, but be notorious to that police, which tracks the footsteps of all who are honoured by its attention, with the omnipresence of some of the fiends of fable. I was indifferent to its pro-

ceedings, and its anxieties and eager restlessness only served to amuse me. Its ramifications penetrate all the recesses of social life, and spread the poison of distrust and alarm over society ;—yet no apprehension of any thing that could be reported by its base and busy, or even its blundering agents, ever disturbed my mind.

To possess the friendship and the confidence of those who stand in the first ranks of moral and intellectual society is, I am aware, accounted a crime by the present French Government ; but I have never felt the shame ; and be it allowed me to add, that every renewal of personal converse has only served to strengthen those affections and those sympathies, which grow brighter and purer as time rolls on.

But my acquaintance at Paris was most assuredly not confined to individuals of any one party. If a more complete communion of thought and feeling have associated me more habitually with the *Liberals* of France,—and certainly, as a body, their mental endowments elevate them greatly above their opponents, and, with one or two brilliant exceptions, place them at the head of the civilization and the literature of their country, —I have been long, notwithstanding, on terms of intimacy with many distinguished partisans of a system which I deem most unfriendly to virtue, most unfriendly to happiness. Yet differing on

many points, we have agreed mutually to respect the convictions of each other, and there is ground enough on which the thorns of politics grow not; where we have plucked together the flowers of knowledge, sharing with common enjoyment their fragrancy and admiring their beauty.

On applying for my passport, after obtaining the signature of the British ambassador, there was some demur, and the police officer proposed to give me instead of it, a *carte de surveillance* for twenty-four hours. This being objected to on my part, a council was held, and my passport delivered to me. I had scarcely reached my lodgings ere a stranger, dressed as a servant, introduced himself and said, "My master has heard, Sir, that you are about to depart for London, and entreats you to take charge of his son, a lad of fifteen years." "Who is your master?" I inquired very abruptly, "how does he know me?" The spy, who must have surely been a novice in his infamous profession, or had been taught his lesson ill, answered, "My master is of the household of the Count d'Artois: he heard accidentally of your being about to start, and will be very grateful if you will take charge of his son." I told him I should probably not leave for a day or two, that I had no carriage of my own, and that my departure depended in some measure on my fellow travellers. He left me, but returned the

next day to say, that his master would lend me his own carriage if I would consent to be his son's protector. He was very urgent to know the time of my departure, and asked if I would receive his master. I said "Yes," but that as I should leave with some personal friends, I could not take charge of the lad. When he had gone out, a gentleman who was with me, and who followed him immediately, saw him deliver a report to a man who stood at the end of the street, who went away towards the Place Carousel (Monsieur's apartments), leaving the spy walking up and down before my door, which was his station during my abode at Paris.

In these interviews I concealed nothing of my plans; for there was nothing that I wished to conceal. That the spy reported my conversation; with remarkable fidelity I had soon an opportunity of ascertaining; for while I was being examined by the Mayor at Calais, I perceived on his table a report from Paris, in which these conversations were minutely and accurately recorded. This report professed to be from the Minister of the Interior, and was headed by stating that the information obtained with respect to Bowring's plans was—as followed. In the New Times of October 22, (the semi-official Journal of the extravagant Ultras) a communication from Paris says, "Bowring, who is in prison at Boulogne, is said

“ to have recently arrived from Madrid,” (I had not been in Madrid since 1821) “ and to have lodged some time here in the neighbourhood of the Palais Royal, *where the eye of the police was kept on him and his associates.*”

In France there are several species of police, which are wholly independent of, and often unknown to, each other. That of the Ultra faction, under whose surveillance I fell, which emanates from the coterie of the king's brother and the Duchess of Angoulême, (the Pavillon Marsan) was then the most active and perhaps the most numerous. In truth, the strength of the party consists almost exclusively in the wonderful extent of this dreadful system, a system which may seem their security in their day of triumph, but which in a moment of reverse may be turned upon themselves, and deliver them over to hopeless and to helpless perdition.

The scheme for forcing on me a fellow-traveller, a boy of fifteen already trained to perfidy and practised no doubt in all the arts of cunning and hypocrisy, was worthy of those who planned it.

On the 1st of October I obtained my passport, and on the same day a telegraphic order was given for my detention at Boulogne or Calais. On the 2d or 3d the police received the usual reports of my proceedings; but they did not meddle with me, nor impede my journey. It

is most certain they had no charge against me ; and at Paris, where I was surrounded by friends, they dared not arrest me without the specification of crime ; the affair would have made some noise ; the interference would have been immediate : they wished to place me beyond the reach of sympathy, and probably to throw the charge of illegality on some of the inferior agents of despotism ; while at Paris it would clearly appear to have emanated directly from themselves.

I had with me a number, not a considerable one, of sealed letters. Some of these I had found on my table when I returned to my hotel to prepare for my journey, and was completely ignorant as to the writers. The Portuguese Minister, M. D'Oliveira, came to me a few minutes before I left, to request I would take charge of his dispatches to the Portuguese Minister here ; which I did most cheerfully.

I left Paris, on the 3d, with two valued friends, by the common Diligence. We arrived at Calais on the 5th ; and when I applied at the police office for a license to embark, there was a momentary demur, a list was referred to, my person was closely scrutinized, and I discovered that some communication had been made about me.

The English packet was on the point of starting ; so that it was impossible to get ready for that day. No objection was made to the indorse-

ment of my passport, or to the granting me a license to embark: but on returning to the inn, the landlord informed me that the officers of the police had been very inquisitive about my proceedings, and that I was closely watched. I imagined it was wished to ascertain whether I had any connexions at Calais, and that they probably desired to report on my having left the country. It gave me, however, not the slightest disquietude.

On the following day, at noon, I sent my baggage down to the pier, and followed immediately after. At the moment of embarkation my trunk was seized, and I was stopped by the Commissary of Police, who said "Come to the Mairie, I have a communication to make to you." My excellent friend Blaquiere (whose name I cannot introduce without the expression of the warmest gratitude and admiration, for the courage, ardor, and devotion, with which he has pleaded my cause, and watched over and consoled my sufferings,) was with me at that moment, and accompanied me to the Town-house. It was there I was told that there was an order for the examination of all my papers. As my luggage had been regularly cleared at the Custom-house, I resisted the mandate, and insisted that no re-examination should take place, except in presence of the British Consul, who was immediately

sought by Mr. Blaquiere ; and meanwhile I required the production of the authority by which I was detained. "*I have it not,*" said the Commissary of Police : but as I still persisted in having it shown to me, he sent me, escorted by a soldier, to the Mayor, with whom I remonstrated on the subject of my detention, and to whom I repeated the demand, that the ground of that detention, or some authority for it, should be communicated to me. "*I have it not,*" said the Mayor : and, after some further altercation, he directed the soldier to tell the Commissary that I might see the order from Paris. The Commissary then produced the telegraphic dispatch, dated (I think) the 1st of October, directing the Authorities to stop Bowring at the moment of his embarkation, and to examine his papers, he being the bearer of dispatches to the revolutionary party in England (*porteur de dépêches aux révolutionnaires en Angleterre*). On the arrival of the British Consul, my passport was taken from me. I opened my trunk, after a formal protest against the contemplated violation, and after a vain attempt to induce the Consul to join his official protest to mine. Interpreters were called in, to examine such documents as were not in French ; the unsealed letters, and divers MSS. were read, and restored to the trunk, when it was discovered they contained nothing political. My person

was next examined ; and the result was, that fifteen letters, one packet, and the Portuguese dispatches, were taken from me, besides an envelope with my address, which contained two ridiculous songs, one (which has been often published) on the return of the King to France, of which

O, c'est le Roi—le Roi !—le Roi !

is the burden ; and the other celebrating, in ironical but execrable style, the birth of “ the Child of Miracle ”—the Duke of Bordeaux. In the same paper was an account of the death of the young Lallemand, written in unintelligible and barbarous English. These three MSS. had been left at my lodgings, with the address which still accompanied them, and had been thrown aside by me almost without attention or inquiry.

When the examination was over, I asked for my passport, as nothing had been found to compromise me in any way ; but it was refused, and the Mayor said he should immediately communicate to Paris what had passed, by telegraph, and he had little doubt I should be allowed to depart on the following day. Meanwhile a *proces verbal* was drawn up of what had occurred, in which I required him to insert that I protested in the strongest manner against the violation of international law, and of diplomatic privilege—but declared my ignorance of the contents of the sealed letters. I urged the British Consul to in-

terpose, which he refused to do, and sat a silent spectator of the whole. The documents seized were then placed under an envelope; and after I had written my name on each, to establish their identity, they were sealed with the seal of the Mayor, that of the Consul, and my own.

I left the Mairie unmolested; and as I had been rather seriously indisposed, I quitted the inn where I was, for the abode of my friend Blaquiere. I was led to expect that an answer would be received from Paris in a few hours; but as none arrived, either on that day or the following, I addressed to the Mayor the letter, which will be found in the Appendix, No. A. To that letter a verbal reply was sent, stating that he had no power of interfering, being only the agent of Government. Finding that I could make no impression, I addressed a letter to the Consul (Appendix, B), in which I entreated him to come forward and demand the person of a British subject detained without cause; but I could not prevail on him to interfere, though it would appear by the opinion of the Batonnier Billecocq (Appendix, Q), that a prompt intervention might have been effectual.

The delay of an answer from Paris excited considerable anxiety in the minds of some of my friends; and they urged me to escape into Flanders, by the coast, with a false passport, or to

avail myself of the many smuggling boats which were then at hand,—some of whose crews had offered to escort me in safety. But I knew how calumny might misrepresent, and malevolence avail itself of such a desertion ; and I determined to await events.

On the 8th of October, a small guard of soldiers were distributed near and in the house where I was ; and I soon received a message, requesting my attendance at the Hotel de Ville, to which I was conducted by a gendarme. I found the Consul with the Mayor ; and the latter then read me a telegraphic dispatch in the following terms : “ Arrest Bowring—Deliver him up to the King’s Procureur (Advocate)—Send on the seized papers to Paris.” The seals of the envelopes, which inclosed the seized papers, were then broken, in order to show that they were the identical papers taken from me ; and I was informed I must proceed to the prison of Calais, previously to being transferred to that of Boulogne. I first inquired the grounds of my arrest, but could obtain no other answer than “ Such are our orders.” As I was then suffering extreme pain from tooth-ach, and a face much swollen and inflamed, I entreated that it might be allowed me to remain at any apartments that should be fixed on, under any guard that they might think fit to place over me, and offered any guarantee

that they chose to require; as in the state of my health the damp and loathsome prison of Calais might be very dangerous to me. The Mayor consented to this (and I do him but justice in acknowledging his general courtesy); but the Commissary of Police, an inferior and in some respects dependent functionary, insisted that no such favour should be shown me, but that I should only be allowed till twelve o'clock (it was then about eleven o'clock) to get my luggage ready for my prison-dwelling. Two gendarmes escorted me home, and I availed myself of the short time allowed me to write to the British Ambassador, at Paris, the letter (Appendix, C). The answer to that letter (Appendix, D) I only received when my solitary confinement, at Boulogne, ceased (Oct. 26); and it is important to remark, this letter proves that the charge which the French Government was then instituting against me was, *for facilitating the conveyance of treasonable papers*: they afterwards changed their accusation to the offence of *high treason* (Appendix, O); a third scheme of crimination was, the assertion that I had *plotted the rescue of the victims of the La Rochelle conspiracy*; and a fourth, and final, that I had conveyed *sealed letters* from France to England, against the fiscal regulation (which does not appear to have been ever confirmed by the King's Govern-

ment, or ever applied to any individual,) of the 5 Prarial of the year 9 of the Republic.

I was led to the prison at Calais. It is a nauseous and disgusting place. The damp and dreary apartment to which I was led, was imbedded in filth, and appeared not to have been occupied for many months. Some lines I wrote there will show the then state of my mind, and of the place (Appendix, E E). The bed which was prepared for me was so filthy and so disgusting, that I entreated I might be allowed to remove to some other part of the prison, as I certainly apprehended that to sleep in such a place, ill as I was, might be dangerous even to my existence. I was conducted to a room occupied by a Frenchman who had stabbed another, and two Englishmen, one accused of forgery, the other's crime I knew not. Their conversations, which partook of the character of their minds, disturbed me through a great part of the night.

In every inquiry I had made, as to the motives of my arrest, I could obtain no other answer than a reference to the King's Procureur at Boulogne. I was most impatient to be conveyed to his presence; and the following day, escorted by two gendarmes, I left the crowds, whom curiosity to see me depart had gathered round the cabriolet when I was seated for Boulogne. The expense of the escort, &c. (about 50 francs) I was com-

pelled to pay. On reaching the house of the Procureur, I underwent an examination ; but I could obtain no information as to the charge against me. The papers, however, respecting me, were in the Procureur's hands ; but nothing resulted from the interrogatories which led to any thing like crimination. He made several inquiries as to the objects of my visit to Paris, which I told him were purely commercial. He sought to ascertain who were the authors of the songs found upon me—whether I had given them publicity—how I had obtained them, and whether I approved of them, &c. ; to which I replied, that I was as ignorant as he professed to be as to their origin ; that they had been extensively circulated ; that they were in bad taste, and such wretched compositions that I deemed them wholly contemptible, and thought they were written by the Ultras to throw ridicule on the Liberals ; but that I had every reason to believe these songs were left at my lodgings by some agent of the police. He asked me who were the writers of the seized letters, and why I had taken charge of them. I answered, they were from a variety of individuals, some known to me, and others unknown ; that I was wholly ignorant of their contents, and could not be responsible for them ; that I had taken charge of them as other travellers did, and with the less hesitation,

as it was most notorious that the correspondence intrusted to the post-office was habitually violated, of which I had personal knowledge and experience. He replied, that such remarks would do me much harm. But I repeated to him, that if he doubted, I had proofs to remove his scepticism. As he could state no accusation, nor had discovered any grounds of suspicion, I supposed I should be instantly released, and was greatly surprised to hear him direct the gendarme to convey me to the prison (*Maison d'Arrêt*). I asked on what charge? He said, he had his instructions from Paris. He appeared not a little perplexed, and made out an order to the gaoler to secure my person, as "*soupçonné d'être porteur de lettres cachetées aux révolutionnaires en Angleterre*;"—an offence, which, if it were proved, did not warrant imprisonment for a moment—as it could only come under the cognizance of the correctional police; and of such an offence there was no proof at all.

The King's Procureur soon felt that my commitment was wholly illegal and unwarrantable; and when it was urged on him by my Counsel, and the excellent British Vice-Consul, he did not deny the irregularity. He knew there had been a false imprisonment; but he said that the irregularity had been got over,—and how? By framing an accusation, with or without evidence,

which would justify the arrest and imprisonment. To this all the cunning of the Minister of Justice, and of his inferior satellites, was directed; and this became doubly necessary, when it was found that the British Ambassador was interfering to ascertain the cause of my incarceration. No answer was ready; for no shadow of criminality—no plea—no one suspicious circumstance, could be alleged. In truth, no after-thought could repair the original breach of law. The records of the *Maison d'Arrêt* exist, and prove that I was thrown into prison for an offence to which imprisonment could not legally attach, if their testimony is required to strengthen that of the order which liberated me, and which declared that "the crime of which I was accused did not warrant my being imprisoned." (Appendix, V.)

I was conducted then to prison, and kept for some time in the outer apartment. The jailor, who, though sufficiently rapacious, was on the whole benevolent, seemed disposed to exact what he could for the use of the only tolerable apartment in the prison, which was his own bed-room; but I was told I could, in no case, have it at night, and must share the common fate of the prisoners, and be locked up in their apartments. All complaint was of course unavailing, and I was glad to get on any terms, and for any part of the day, an abode less wretched than

that to which those who surrounded me were condemned. Within the prison at Boulogne, as in the majority of prisons in France, all crimes are blended without distinction, and the alleviations of imprisonment depend wholly on the pecuniary resources of the prisoner. There the debtor and the maniac are confounded with the felon and the murderer—the youngest pilferer with the most practised thief—the innocent mendicant with the hardened ruffian. No employment, but gambling; no habits, but drunkenness. For spirituous liquors, sold by the jailor for his own profit, I have seen the wretched inmates pawn the most necessary articles of dress. There were nakedness, and misery, and profligacy—and daily masses, and great concern for the *spiritual* interests of the prisoners. It were well if those, who built a chapel there (as was lately done), had given half its cost for the purchase of soup or straw.

At Boulogne, I was soon visited by the British Vice-Consul, Mr. Hamilton, who watched all the proceedings with unremitting attention, and alleviated, wherever he was able, whatever annoyed or distressed me. When I was led through the streets by the ragged soldiery, he represented the indignity to the Authorities, and obtained the attendance of the well-clad gendarmerie. Many of the calumnies which were industriously circulated concerning me, he denied and silenced.

His personal attentions were unvarying and unwearied. He went immediately to the King's Procureur, to ascertain how far I should be allowed unrestrained communication with my friends; and was solemnly assured that, whatever steps might be taken as regarded other individuals, access would always be allowed to him. In spite of this promise, when he returned to the prison on the following day, admission was denied him, and he was told that the order for *solitary* imprisonment was absolute, and admitted of no exceptions *whatever*.

I was fortunate enough to meet with another friend at Boulogne—Mr. C. H. Hutchinson, the Member for Cork. His and his lady's attentions—delicate, active, generous—removed all the irksomeness of imprisonment. It is delightful for me to remember, and most grateful to my feelings to record, the influence of their kind and honest sympathies—and more especially as I knew they subjected those who exerted them to the special notice and particular hatred of the French Government. Sir Robert Wilson had kindly (not knowing that I had previously the honour of their acquaintance) recommended me to the Hutchinson family, as soon as he was informed of my imprisonment; and there is reason to believe that his letter, which was sent by the Post, and was of

course read by the Police, precipitated his removal from France.

On the morning of the second day after my arrival I was escorted to the Greffe, there to be examined by the Juge d'Instruction. The Greffier was present. I first required that the British Consul, or some legal adviser, should be allowed to attend, in order that I (a stranger and a foreigner) might not be unfairly dealt with : but the request was peremptorily denied. I then asked for an interpreter ; but in vain. I was told that I understood the language perfectly, and required none. But I replied, that though I might be well acquainted with colloquial French, I knew nothing of legal technicalities ; nor would I consent to cede a national right, as my silent cession might be made a precedent, to the detriment of some of my countrymen, who were less used to the language. Remarks were useless. I renewed my protests against the violation of international law—of diplomatic rights—and of common hospitality. I asked what was the offence I had committed ; but could obtain no satisfactory reply. " Your affair, Sir, is at Paris." The examination proceeded. It referred wholly to the letters seized, and was perfectly vague—and, in fact, a mere copy of that I had undergone before the King's Procureur. In most instances

the questions were *verbatim* the same ; so that I was obliged, again and again, to refer to my previous answers, and to complain of the unnecessary annoyance of requiring me to repeat what I had stated but a few hours before. When there was an end of these interrogatories,—a most bombastical parade was made of the horror, excited by the atrocious and defamatory outrages against the sacred person of His Most Christian Majesty, contained in some such phrase as

“ He came in the enemy’s baggage,”

in one of the songs,—I said, I could not comprehend that loyalty which was so shattered and shaken by a paltry joke. I was, in truth, not a little amused by the absurd fustian in which some of the examination was wrapped up ; and not the less, as it was intended, no doubt, to bear testimony to the zeal and devotedness, and pure ultraism, of the Greffier and the Judge.

I was conducted back to prison, still in ignorance of the grounds of my detention ; but convinced, from the nature of the examinations, which were altogether vague and desultory, that nothing like an accusation was at this time framed. Several individuals called on me, and offered their willing services, for the diminution of such evils as were within the reach of kindness. But my intercourse with both friends and enemies soon closed ; and the next day, in the

morning, the jailor came to inform me that there was a mandate for my being kept *au secret*—in solitary confinement—to be unbroken by any human being, or on any account whatever. I was now convinced that it was intended to criminate me capitally, if possible. Four *procès verbaux* had been already made—two at Calais, and two at Boulogne. I was perfectly certain that not a tittle of criminatory matter existed in them; yet what might I not apprehend from a Government that had pursued me with spies and informers—that had violated all that is held sacred between man and man; that had imprisoned me without accusation; that had tormented me by secret examinations, and that was now removing me beyond the reach of sympathy; and endeavouring, by the foulest means, to discover subjects for crimination, or perhaps determined to create them? Perjured witnesses—falsified documents, would certainly be instruments as honourable as those they had employed, and were continuing to employ. They who had revived the *Lettres de Cachet* would hardly scruple to go further. What can arrest the furious impetuosity of a fanatical minority, armed with arbitrary power, and deeming brutal violence the essential character of good and legitimate government?

The crowded state of the prison prevented the orders for my seclusion from being absolutely

obeyed, except by day ; for at night I was shut up as usual with the other prisoners, that is, with those who could afford to pay to the jailor ten sous (five-pence) per night, for the accommodation of a bed ; the rest, without any distinction of crime, being allowed only straw, and that in insufficient quantity. My apartment was in a state of terrible dilapidation ; and from the grease and other materials belonging to a shoemaker, who was confined there, and from a collection of stale butter, apples, and fragments of food, was often exceedingly offensive. A carpenter, a mild and amiable man, who had been imprisoned for some smuggling transaction, fixed some pegs, on which I was enabled to hang up my clothes. The same man had, at the instigation of an old ecclesiastic, erected a neat and commodious chapel for the unfortunate worshippers, within the walls of the prison, as mentioned before ; and there I was accustomed to attend sometimes, to listen to the feats of the saints and martyrs of old time,—to drink in sound *legitimate* doctrines, delivered no doubt with great ardour, and for aught I know, resulting from strong conviction. On one occasion the preacher narrated the miraculous conversion of Clovis—a ferocious, perjured man-destroyer he, by the way—and explained to his hearers that he was a most valiant fighter, who “ covered himself with glory,” and who led on the Frenchmen of old times

to gather (as they always gathered) the laurels of victory: but once, when he was about to be beaten back, and finding his prayers to his own gods most unpropitious, he exclaimed "I'll try a new God—the God of the Christians—the God of my wife Clothilda." On a sudden a bright cross appeared in the heavens (*that was a plagiarism*—but the prisoners were no professors of history,)—he dashed among the foe; they fled at the strokes of his mighty arm; they were scattered like dust in his presence. "And so, my beloved hearers (said the priest), Christianity became the religion of the Franks, and travelled down even to you." The prisoners are not compelled to attend the celebration of mass. I observed that the young and the old were habitual worshippers. The middle-aged seldom crossed the threshold of the chapel, and dealt liberally the appellations of *bigots* and *hypocrites* upon their companions. In the prison the state of the women is incredibly bad. There was among them one, a poor maniac, who was in the habit of tearing off her clothes till she was naked; she sat through the day on a dunghill, which she had collected from the filth of the prison, dashing her head constantly against the prison wall: her body was covered with sores and bruises, so as to be intolerable and inapproachable, from its stench. Her gestures were horrible beyond any thing I

had ever witnessed ; and she sat, rotting, upon the rottenness beneath her, the subject of all the jests and ridicule of the wretches who surrounded her. There was another woman,—driven to insanity by a love affair, whose beauty, wild and frenzied as it was, could not but instantly arrest and fix the attention,—who had dressed herself in fantastic finery, and who dealt out her measure of scorn and contempt on the criminals who laughed at and tormented her. They were all mingled together—maniacs and prostitutes, female thieves and debtors. There is a Prison Society at Paris ; the Bourbons are its patrons, and they receive from time to time its laudatory homages.

The books I had with me, and those with which I was furnished by the active kindness of Mr. Hutchinson, made solitary confinement very tolerable. I created around me a little world of imagination, which I filled with beings after my own heart. I felt as if allied, even though remotely, to those illustrious sufferers whom tyranny has from time to time incarcerated in its dungeons. In such moments, it was consolatory to think how little power despotism possesses to make its victim unhappy. That thought is a *prouder* one than any that usurping force could ever indulge. If I hated tyranny before, the feeling became intenser

then ; but the faculties of the mind get worn and wasted under its influence. My heart seemed burning with the fires of indignation, which, though subdued for a moment, were rekindled by habitual thoughts and passing circumstances. What could be the motive for excluding me from all communication ? Was it to deprive me of the means of defence ? Was it to prevent me from appealing to my Government ? Was it to prepare my mind by harshness and cruelty for those long and wearying examinations to which I was to be subjected ? Imprisonment is in itself a heavy infliction, especially when vice and misery are the companions of the prisoner : but to be cut off from every channel of sympathy, and every species of protection—to be left in perfect ignorance of the crime imputed, yet enabled to ascertain by the nature of the confinement, that the intentions of those in authority are of the most malevolent character ; to feel innocence in all its helplessness—to know that the laws give no security ; and if they did, that despotism is stronger than the laws,—is a situation not much to be envied.

On the 16th of October, I received from the King's Advocate the letter (Appendix, E). It was unintelligible to me, for it required me to decide on a place of trial, while I was in ignorance of my crime, and while I was shut out from

the means of consulting any lawyer to guide my determination. I hardly knew if the statement, that I might choose to proceed to Paris or remain at Boulogne, was communicated with a hostile or a friendly intention. I had little disposition to be conveyed to Paris, from brigade to brigade, and be deposited every night in the common gaols on the road; and that, too, at a very serious expense (for I had already found my confinement sufficiently onerous on that score). I therefore wrote the letter (Appendix, F), and soon received that from the King's Advocate (Appendix, I), to which I immediately replied.—I could only protest in the strongest terms against the acts of the agents of the French Government, and resist as far as I was able every disposition to inflict any additional suffering, whether pecuniary or otherwise. I was not allowed to receive the answer, which I took for granted had been sent to me by the British Ambassador, for my guidance; nor could I make a written or verbal communication to M. Hedouin, who had been appointed to watch over the proceedings, and to protect me as far as he was able. I afterwards learnt that the British Consul had come from Calais, with a dispatch from Sir Charles Stuart, which he was especially directed to deliver into my hands. Being refused admission to me, he made a formal written demand to the

King's Advocate, less strong, certainly, than the circumstances required; which demand was met by a decided refusal. The *mandat d'amener* (Appendix, G) was served upon me by a *huissier*. It will be observed, that the document states at the foot that I consented to obey it—the contrary being the case; but the after part of the declaration was written before the *huissier* had visited me at all. He also brought a formal certificate of my refusal to proceed to Paris (Appendix, H), and an order to the jailor to keep my person in safety. I could obtain from him no information as to the state of the proceedings, nor as to their nature.

Thirteen days of uncertainty and of seclusion had passed, when a gendarme summoned me to attend him. He escorted me to the Greffe, where I found the Juge d'Instruction accompanied only by the Greffier. My names and titles being asked, I began by protesting against these secret proceedings, which I said resembled the "deeds of darkness" of the Inquisition, and that they were abhorrent to an Englishman's feelings and such as he was unaccustomed to submit to; that if it were intended to extort from me confessions to be used against my friends or acquaintances, if they supposed I had come to France to act the part of a spy or an informer, they had mistaken my character. I then required that the Vice-

Consul should be present at the examinations, in order to see that the legal forms were not violated : this was peremptorily refused, after a consultation with the King's Advocate, to whom my demand was communicated. I then insisted on my right to an interpreter, which was again denied, the Judge deciding that my knowledge of the language was such as to make it wholly unnecessary. I repeated as before, that whatever might be my knowledge of conversational French, I knew nothing of the language of jurisprudence ; that as a foreigner I had a *right* to an interpreter, and would not cede the right lest a precedent should be established, to be used where the assistance of an interpreter might be all-important to an accused person, and that it was to me most essential to have two more eyes fixed on these secret and uncontrolled proceedings. The appeal was in vain ;—the interpreter was denied to me. I complained to the Judge of my situation in the prison, stating that the King's Advocate had assured me that I should be well treated, and have an apartment to myself. He said, that nothing could be done for me, they had had no Howards in France, and it was too true that their prisons were miserable places. He, however, listened with urbanity to all my observations, and often spoke of the painfulness of the duty he had to discharge. He bore my severest remarks with patience and good humour,

and often wandered into discussions with me on subjects wholly unconnected with judicial affairs. He said, he had nothing to do further than simply to obey his orders from Paris ; that he had received a *Commission rogatoire*, or questions on which to examine me. These, I observed, consisted of about four folio pages ; and the interrogatories lasted about three hours. I told him that I supposed the time was come in which I might be allowed to know the nature of the accusation against me. He answered, that he only knew that I was to be tried with Colonel Dentzel, Colonel Fabvier, and others, and that I should probably be removed to Paris. It appears by these interrogatories, that the suspicions against me were, that I had been accustomed to hold intercourse in England with a number of individuals disaffected towards the Royal Family of France ; that I had on many occasions attended secret meetings in England with General Lallemand, Col. Duvergier, and others of revolutionary politics ; that at these meetings it had been decided to attempt the rescue of the several traitors who were confined in different parts of France ; that I had come to France with large sums, for the purpose of bribing the jailors ; that I had furnished the money with which the attempt was made to seduce the jailor of the *Bicetre* ; that I had held habitual intercourse at Paris with the families of

Lady Oxford and *Lady* Hutchinson, (families, it was added, particularly distinguished for their political intrigues,) and in their house, in the Rue de Clichy, the plans for the rescue of the criminals referred to had been advanced and matured. There were a number of inquiries as to my knowledge of Colonel Fabvier—my intercourse with him in London and in Paris—my pecuniary transactions, &c.

A more amusing tissue of absurdities and fictions, hung upon some trifling fact which had been got at through the Police, cannot well be conceived. I often broke out into irresistible laughter at the rapacious credulity and silly malevolence of those who directed their proceedings. As to any thing I had done in England, I said I was not responsible to them; it was true I had received many an exiled Frenchman: I should continue to do so; for the man who has lost his country ought to be looked on as every body's fellow-citizen. Lallemand I had seen but once in my life, and certainly never had any conversation with him on any political objects;—the story of the attempt to rescue the individuals confined for treasonable acts, was a falsehood in each and every particular. I had never heard of the plot, but through the newspapers; and never believed in it at all. I knew nothing of the parties to be released, or of those who were said to have

tried to release them. From no person whatever had I received even a hint on the subject. As respected Colonel Fabvier, the inquiries were exceedingly minute. They pretended that he had come to England specifically for the purpose of plotting with me and others against the French Government. The truth is, I had never seen the Colonel till I met him at Lady Oxford's; he has been engaged in commerce of late years, and he interfered with singular generosity to protect the signature of a friend from being dishonoured, and I had occasion to see him more than once on this subject. When all his papers were seized, my card was probably found among them; and on this solitary ground it was imagined, that I might be tacked to the action that was pending over him; though even against *him* there was not a shadow of evidence,—how much less against me, when the only fact stated was, that I had been in Fabvier's company! But Fabvier,—a strong-minded noble citizen—he, who though a favourite of Napoleon, opposed his aggressions on public liberty, and refused (I believe he was a solitary example among officers of his rank) to sign the *Acte Additionnel*,—was marked out for persecution; and whether criminal or not criminal, makes no difference in the eye of despotic power.

It was clear it was not intended that the families of Lady Oxford and Mr. Hutchinson should be

openly designated as distinguished for their political intrigues. This was marked between brackets in the *Commission Rogatoire*, and was meant as a sort of landmark for the Judge; but he did not perceive it, and hurried on—over text and notes—without consideration or scruple. That a family of ladies, distinguished indeed for their talents and beauty, should be considered as a central point of conspiracy, and that plots should be there carried on during the evening's *conversazione*, would only seem credible to the fear-haunted Ultras;—they talk much of chivalry, but this is surely not very chivalric. As to the aspersions cast on Mr. Hutchinson, he will know how and where to repel them. His attentions to me have subjected him to much inconvenience, and might have drawn down on him heavier vengeance; yet, in contempt of the expressed threatenings of the fanatic faction and of their concealed hatred, he did every thing that kindness could do on my behalf and for my comfort. He was my daily visitor, as soon as I had ceased to be *au secret*.

When the examination was over, I applied for a copy of the *procès verbal*, which, however, I could not obtain. On many occasions, the Judge employed words which I had not used, wishing to give them his own style of expression. I often interrupted him, by saying, "That was not my language;" his reply was "Leave me alone—It

will be all set right : " and once he said, " It does not matter, you will not be tried for that." In the whole of this interrogatory there was not even the most distant reference to any of the papers seized on me, so that I took it for granted the original charge was abandoned ; and no doubt it would have been abandoned, if the slightest fact could have been extorted from me, on which an indictment for a heavier crime could be hung. So little material for crimination was found in this examination to connect me with Dentzel or Fabvier, that all the after-interrogatories again reverted to the correspondence, and the subject of the rescue of the conspirators was not once referred to afterwards.

After the *procès verbal* was closed, I asked to be released from my *solitary* confinement. The Judge hesitated ; when the Greffier said, " The *secret* may be taken off : " to which the Judge replied ; " The order says, ' may be ' (*pourra*), not ' must be, ' " and proposed to refer it to the King's Advocate : but on the Greffier's repeating that the power was in his own hands, he directed an order to be made out to the jailer, requiring him to allow me to receive my friends.

I was immediately visited (on my return to the prison) by the British Vice-Consul and several other friends. I found that the most daring calumnies had been circulating about me by the *Ultra* journals, at a time when they knew it was

impossible for me to defend myself from their attacks. I was urged to answer them, and to expose their mendacity ; but the task was too laborious, and would have been interminable. One newspaper said, that when I heard of Sir Robert Wilson's banishment from Paris, my courage forsook me, I turned pale and trembled exceedingly. Another declared, that I had been the eulogist of all Napoleon's despotism : and a third pretended that the most incendiary papers had been found on me addressed to the soldiery. Of these mis-statements I afterwards complained to the Judge, who said, that as to the first, ' he had never seen me tremble.' As to the last, I told him that, if any one knew the contents of the papers seized, it must be either an agent of the police, who had deposited them in my lodgings at Paris, or it must have been by his intervention, as all the proceedings were secret, and the papers ought never to have left his hands. The truth is, the statement was wholly false, there being no writings of the character stated. In the same spirit of misrepresentation a report was circulated by the gendarmerie, that no less than five trunks of outrageous attacks upon the Government were taken from me, and that I was escaping from the country in disguise. This is the genuine system of despotism. Truth, as far as truth will serve

its purposes, but no further; and all the rest, falsehood.

I found that the Portuguese Ambassador's dispatch had not been returned to that Minister. I had sent off a messenger to tell him of the outrage committed on his diplomatic rights, and he immediately insisted on its being delivered to him; so that the French Ministry had no power to say, that they believed his seal had been used without his authority: but no attention was paid to his demand. The seal was broken—the dispatches were taken out, and sent to the Holy Alliance at Verona; and after several days, some unimportant family letters, which had been inclosed with the dispatches, were sent to M. d'Oliveira by M. Villele, but the dispatches were kept. That diplomatic correspondence has been often secretly violated is very notorious. I have known one instance, in which the seal of one embassy was used by mistake for that of another, when the dispatches were hurried off by the examiners; but such an open, undisguised, and insolent outrage as that committed on the Portuguese nation, is, I believe, novel in modern history.

One of my earliest cares on the removal of the restrictions which prevented my communicating with any person whatever, was to address the British Government, entreating its prompt inter-

ference to rescue me from the hands of oppression. I wrote to Mr. Canning the letter given in Appendix M., and sent a copy of it to Sir Charles Stuart (Appendix, L). My indignation at the measures taken to obtain something like an acknowledgement of guilt, and the disposition manifested to inflict at all events as much suffering as possible, could only be strengthened by the certainty that there existed no charge against me. *Espionage*; denouncement; violation of the common rights of hospitality, and the common claims upon protection; questionings and cross-questioning:—were the instruments of the Inquisition other than these in character, whatever they may have been in detail? I could not think the more favourably of despotism merely because it invoked the laws which it trampled on; because it clad itself in the robes of magistrates, or sat upon the high seats of the tribunals. Unjust governments are most furious and fanatical when they are most feeble. Knowing little, they suspect much. Surrounded by enemies, they shut their eyes and stretch out their hands, and can hardly fail to seize upon an individual, whose opinions,—if they can manage to extort them,—will not subject him to their heavy visitations.

After a few days I was again led forth to be examined by the *Juge d'Instruction*. No reference, however slight, was made to the former

charge of my having plotted the release of the conspirators of La Rochelle. A large packet was produced, which the Judge told me contained the letters seized on me—the identity of which he required me to recognise. I observed that the songs, &c. had lost their envelope; to which I requested his special attention, as the hand-writing of that envelope might have enabled me to trace these papers to some agent of the police, who had deposited them at my lodgings; or possibly, at all events, to have identified the bearer by means of the servants of the hotel: these channels of detection were now closed upon me. The letters were handed to me, in order to prove that they had never been opened, and certainly the seals *appeared* not to have been broken; yet the *Commission Rogatoire* referred to the contents of the letters—and as I was able to look over the paper which the Judge held in his hand, I found there were special instructions as to my examination upon their contents. One of the letters had the indorsement, “This is from Colonel Fabvier;” and the questionings were most minute as to every person and every thing referred to. Among the letters were several from the Oxford family to different individuals; one from the Abbé Gregoire to the African Institution, containing, I have reason to believe, some valuable documents, which reflect-

ed no honour on the Government of His Most *Christian Majesty* ; one to Mr. Charles Butler ; one to Sir Harcourt Lees, from (I believe) some individual of the Embassy at Paris ; and some others of less importance. The dispatch of the Portuguese Minister was not among them—that had been already rifled, and its contents had been sent to Verona, to prove that the atrocious purposes of the Allied Despots were already known, and to engage them to hurl their thunderbolts against the freedom and the well-being of the Peninsula.

While the letters were being opened by the Judge, I asked him how he could consent, in his official capacity, to be the agent of acts which would reflect infinite disgrace upon him as an individual. I told him that in England the violation of a seal was treated as an anti-social outrage, and would be punished as a crime ; that I had heard he intended to cross the Channel, and I doubted whether the English Government—the communications from whose official agents he dared to violate—would not call him to account for such acts ; and I questioned if his plea of public duty would then avail him. He replied, “ It is to you, Sir, then that I should look for protection ; and it is from you that I hope for those explanations which will hold me excused to those whose letters I am compelled to read.”

I objected to hear the reading of the letters which had been confided to me. It seemed something like a participation in these disgusting proceedings : but my objections were not attended to, and the Judge required me to give explanations of all the parts he chose to fix on. - I told him he must apply to the writers—that it was a new thing to require the bearer of a letter, who knew nothing of its contents, to explain what its author meant, or what the individual to whom it was addressed understood by it. There was in one of the letters (it was from a lady) some wit poured out on the Army of the Faith and the Urgel Regency. On these interesting matters many a question was hung. Names I had never heard of were introduced, and I was asked to give their history. Of some individuals whom I knew they required to be informed—where they lived—how they lived—what they did, and what they proposed to do. This examination lasted five hours ; it lasted much longer than my patience.

I afterwards observed by the newspapers that Colonel Fabvier was accused of having used in the letters seized upon me, expressions hostile to the French Government. I remember no such expressions ; I believe there were none such.

During my examination, I again entreated that the article of the Code upon which they were proceeding against me, might be pointed

out. One of the clerks said it was not in the Code—there was a Post-office regulation. The only tangible accusation was, after all, that I had sealed letters with me. “What would you have done, if M. Bowring had deposited the fine, and insisted on being released?” was a question afterwards put to the Authorities. “We should have been embarrassed,” they replied; “but we had superior orders!” Whatever was the irregularity—whatever the injustice—they were transferred to other agents.

It would be not a little curious to revert to the tone used by the public press at different periods of my imprisonment. The *Courier* of the 25th of October, after giving some of the details which will be found in the preceding pages, calls them “absurd;” and says, that doubtless the result will prove, that the French Government would never permit a violation of the rights and liberties of an individual, without the strongest and soundest motives;—that the affair was going on, and that at all events *justice* would be done to Mr. Bowring. The result is now known; the strength and the soundness of the motives of the arrest may now be weighed. *Has justice been done?*

Among the letters were some in other languages, and interpreters were summoned to translate them. The prose writing found with the

songs was again introduced ; and I remarked to the Judge, that it would be most unfair it should be made intelligible in French, while the English was such as no Englishman could easily comprehend. I pointed out several passages to the interpreter, and asked what they meant ; he said he *supposed* their meaning was so and so. The consequence, however, was, that unintelligible nonsense, which would only have excited a laugh in England, became a flaming overwrought piece of violence to be used, as it was used, for introducing some fine declamatory bursts of loyalty into the *procès verbal*. In this way, expressions of superlative horror, at outrages against the sacred person of the King, and of laudatory admiration of his Government, spread over half a page, introduced some frivolous question, to which the answer was as simple as possible. In the letter of Colonel Fabvier, there was a reference to the negotiations going on with Lafitte's house, respecting the legacies left by Napoleon ; and the inquiries on this subject (though I was perfectly ignorant of any details) were very busy and particular.

After the examination of the 26th of October, which lasted five hours, I was given to understand that another and a final one would take place, which would be much longer, in a day or two. At this last examination, which was of a similar

character to the rest, I complained of the mis-statements which were constantly circulated, and some of which implied a knowledge of circumstances which could not have transpired without the connivance of some of the agents of power. Many other statements had been made in the French newspapers, which would seem to have originated with me, and which were very likely to be used against me. I wrote to Sir Charles Stuart on this subject; and engaged the Vice-Consul to do the same, which I believe he did, as his name, as well as my own, had been very unceremoniously used. The Judge was accustomed, where the questions had not come from Paris ready prepared, to arrange them on the previous day. Some of them were of a strange character. There were inquiries, for instance, about Las Cases' Memoirs of Napoleon—about my friend Blaquiére's History of the Revolution—and my old and estimable fellow-traveller (Count Pecchio's) Six Months in Spain, and Three Months in Portugal. Other questions were as trifling as could be fancied. My answers were seldom or ever given in the exact language I used. Perhaps there was no bad faith in this; but certainly there was no evidence that the recorder of my replies had any very correct notion of his duty. Once or twice the Judge remarked that these interrogatories were only forms, and

that every thing would be explained, and properly understood hereafter. I said, I could not conceive the possibility of my being brought to trial ; but the Judge answered, that he had no doubt I should be removed to Paris, to be tried there. I inquired on what accusation, but could get no satisfaction on that score. When the examination closed, the Judge said he was heartily glad to have got rid of it ; and, in truth, I heard that Magistrates, to whose lot it might have fallen to interrogate me, had expressed publicly their great satisfaction that I had fallen into other hands. It is a strange fact, that through the whole of the proceedings not the slightest reference was ever made to the Portuguese Minister's dispatches, so shamelessly seized—so openly violated. The *Juge d'Instruction* assured me that he should not lose a moment in dispatching the papers to Paris ; and I was informed the *Procureur* had given a similar promise to my Advocate. He declared at the same time that I might calculate on a very speedy decision ; and as the telegraphs had been at work for my arrest, I hoped I might calculate on their co-operation for my early deliverance. My expectation of soon reaching the term of my imprisonment was encouraged, too, by the knowledge that those who were acquainted with the examinations and with the documents, had declared that there was not

a tittle of evidence to warrant my detention. I ought, therefore, to have been released immediately—say by the end of October. But it was obviously the intention of the Government to inflict as long a term of imprisonment as possible; and for many days after the examination had closed, no steps whatever had been taken. I wrote, and my Advocate, M. Hedouin, wrote repeatedly to the Ambassador, and to M. Berryer fils, who had been charged, I understood, with the conduct of the case; but no satisfactory information could be obtained.

Meanwhile I received from Sir Charles Stuart the opinion of the Batonnier Billecocq (Appendix, Q). It is a mere apology for, and approval of, acts of despotism. The Batonnier was hardly likely to give an unfavourable report on the proceedings of the Government of him who put the Baton into his hands, or to furnish any instrument for attacking his masters.

The continued delay induced me to write a second time to Mr. Canning. The letter will be found in Appendix, S.

During the whole period of my confinement Sir Charles Stuart had never been able to obtain from the French Government a written statement of their charge against me. The reason is clear—they had framed no charge—they had found

no materials for one ; and the best and most consistent story they could make out, on which to rest the legality of my detention—and how absurd and mendacious it is I shall soon expose—will be found in the Appendix, T. But the interference of Mr. Canning had no doubt become urgent. He saw that he was trifled with. In truth, the French Ministry could not but be strangely embarrassed by the consideration, that after their high-sounding charges of treason and other awful crimes, they could find no proof whatever of any crime at all. In England they had been supported by a part of the press, which gave them credit for sagacity at least. They had pledged themselves again and again, that M. Bowring should have justice done him ; and they supposed, perhaps, that they might add delay to delay ;—and, by reminding the Ambassador “ that M. Bowring was in the hands of the Tribunals,” induce him to be silent. But what could they say to Mr. Canning’s reiterated demand—“ An accusation ; or set him free.” By Mr. Planta’s letter (Appendix, W), it appears that a positive assurance was at last obtained, that a decision of the Court should be communicated within a day or two. The Paris papers at this time announced that an order was sent to transport me thither.

On the 15th of November, M. Hedouin came to the prison—threw himself into my arms, and said, “You are free.” And within an hour, I received the communication from the King’s Advocate, which follows ; the original of which may be found in Appendix, V.

No. 20,481.

Boulogne, 15th Nov. 1823.

SIR,

I inform you that, in consequence of a decree given by the Chamber of the Council of the Tribunal of First Instance, of the Department of the Seine, on the 12th of this month,—bearing that you, having disobeyed the decree of the 5th Prairial, of the year 9, by being the bearer of sealed dispatches or letters, are sent on this charge before the Correctional Police ; and that, notwithstanding, you shall be set at liberty, inas-much as the punishment of imprisonment does not attach to the charge against you. I have, therefore, ordered the jailer of the prison to set you immediately free.

I salute you.

CARON DE FROMENTEL,
King’s Advocate.

On such a document, it is not necessary to make one observation.

I paid my account to the jailer,—by no means a trifling one,—and hurried away from the prison. I had passed there many hours of illness, but few of alarm ; many days of indignation, but none of self-reproach. In the evening, I received from Sir Charles Stuart the letter (Appendix, U), and I was especially gratified by that part of it in which he says, he waits the instruction of the British Government, as to the measures he should take. It would appear, that the opinions obtained by our Ambassador, had not convinced him of the legality and propriety of the conduct of the French Government.

There is in the statement against me made by the substitute of the King's Advocate before the Tribunal at Paris, invention to such little purpose, and mendacity so clumsily applied,—the facts are so distorted, the dates are so confounded, my answers to the interrogatories are so tortured and so falsified, that I shall take up the " Conclusion " sentence by sentence ;—after this leading remark, That the only fact by which they attempt to connect me with the plot in question, is by showing that I was acquainted with Col. Fabvier ; that against the Colonel himself there was no evidence whatever ; and that he was ultimately acquitted of all participation.

" Colonel Fabvier was in England at the end of August."

This is probably true; but I never saw the Colonel in England, nor did I ever receive a letter from him, nor did I know he was in England, nor was I within 100 miles of any place he visited.

"He returned precipitately."

False,—the word is introduced only for the sake of effect:—he returned quietly, concealing his visit from nobody.

"Bowring followed him almost immediately to Paris."

False: he had returned a long time before I left England. I cannot ascertain at this moment, but I am persuaded the period of Fabvier's visit is incorrectly stated.

"Bowring arrived at Paris at the moment when the plan for rescuing the prisoners was agitated and followed up with most ardour."

This may be; and the French Government knows the dates, no doubt, when the plot was agitated and carried on with most ardour. I never heard of the said plot. I did not believe in its existence. I doubt it now.

"He acknowledges, that *on his arrival* he had several interviews with Colonel Fabvier."

Not so; I did not see Fabvier till some time after my arrival.

"He assigns as a motive for these interviews other objects than the plot at issue, but does not justify his assertions."

~~Most false~~—most wilfully false. I denied in my interrogatories, that I had ever heard a word from Fabvier on the subject of this plot, and declared that from me, *he* had never heard a word. I stated simply the subject of my interviews with Fabvier, of which no doubt they found documentary proof, when they seized his papers. My statements were susceptible of contradiction. In examinations, which lasted nearly twenty hours, they did not, they *could* not, detect a single misstatement. What I did not justify, why did they not disprove?

“He left Paris as soon as the attempt to corrupt the jailer had failed, and when justice was in pursuit of its authors and accomplices.”

False again. The young men were *executed* on the 31st September; and, of course, the plot for their escape must have failed before *that* date. I left Paris on the 3d October. Why was I not arrested when I applied for my passport? when the spies gave in their reports of the 2d and 3d of October? when I reached Calais? when my papers were first seized? No! the thought of the possibility of attaching me to the *Bicêtre* plot never occurred to the Ministry till Sir Charles Stuart interfered. It was used as a forlorn hope—and how forlorn!

“He was arrested at Calais, bearing a great number of dispatches or sealed letters against the

decree of the 5th Prairial, year 9; and among them, one from Col. Fabvier to Count St. Mar-san, a Piedmontese refugee, in which mysterious relations and projects hostile to the Government are treated of."

And Fabvier was in their hands,—and they could find no matter for crimination;—and they never thought of this letter,—and Fabvier was acquitted!

"The bearer, too, of the *most outrageous* writings against the King, the princes of his family; and his government."

At best, these writings were but *bad* jokes. Where would the extra-superlative have been found had they been *good* ones?

"Grave, however, as are the presumptions arising from this concourse of circumstances—"

In the arithmetic of despotism, a certain quantity of zeros will make a unit.

"And though they may have made his arrest necessary, they do not *at present* constitute sufficient evidence to establish a legal suspicion."

By and by, perhaps, a something may be produced out of all these nothings. Tyranny may grow a little stronger—the laws a little weaker. Meanwhile, the threat may be held over me *in terrorem*, should I venture again to seek "protection under the *paternal* sway of the Bourbons."

Before I left Boulogne, I had occasion to see

several individuals of the Authorities. One blamed me for not going immediately to Paris, when the *mandat d'amener* came; another said, that had I been a Frenchman I should not have got off so easily. I called on the *Procureur du Roi*, who frankly owned he had been exceedingly embarrassed throughout, and that the only tangible matter for which he could commit me (though he had no right to commit me for that) was for being the bearer of sealed letters. All the rest, he said, was very vague. The *Juge d'Instruction* assured me, it was to him a very happy day when he got rid of me; and I was satisfied to see every where a sense of shame excited by the disgraceful proceedings in which they had taken a share. 'Spirits' more 'finely touched' would have refused to lend their ministry.

Of my lawyer, M. Hedouin, I am bound to say that he discharged his duties with all the disinterestedness of friendship, the ardour of strong sympathy, and the ability of sober judgement. I think more highly of his courageous zeal, because he is a partizan of *legitimacy* (let not the word be mistaken!) and has done good service to the royal cause.

On the 16th Nov. I reached Calais. The Commissary of Police, when I was about to embark, said, "*Vous m'avez traité d'une manière sanglante.*" I know not to what he referred; for if the disgraceful parts of his conduct had obtained

publicity, it was not through me. I arrived in London on the 17th November, accompanying the dispatches which communicated the information of my liberation. Mr. Canning (I remember and I record the circumstance with pleasure and gratitude) sent the very earliest notice of my release, both to my family at Hackney and to my father in Devonshire. I mention this, because it does no small honour to a Minister of State, that he should thus have sympathized with the anxieties of individuals whom he had never known, and would probably never know. Such acts of kindness make a deep impression; and it is the deeper where it is made on bosoms undisturbed by the vicissitudes of political changes, and pursuing in secrecy and solitude 'the noiseless tenor of their way.' The feeling produced by the decision, which announced my liberation, was almost unanimous: only one solitary exception has fallen under my notice; I will not drag it forth from its obscurity.

I wrote immediately to Mr. Canning to advise him of my arrival. My letter was very promptly replied to, and Wednesday the 20th of November was appointed for an interview.

Mr. Canning's reception of me was markedly polite and kind. He inquired after my health—the nature of my confinement, and the treatment I had experienced. He said, that in his inter-

course with the French Ministry on the subject of my arrest, he had only obtained vague and unwritten answers. He appeared impressed with a sense of the violent measures under which I had been suffering, but added, that the Ambassador had not been able to put his finger on any one act which bore the stamp of illegality. I said, that though no doubt the nature of French criminal procedure was such as to give to despotism every advantage it could desire, yet in my case it had gone far beyond its legal boundaries. Mr. Canning requested I would make out a statement for the information of Government, and which he would hand over to the legal authorities, "whose opinions," he added, "we look to on such occasions as the guides of our conduct." I asked him what he deemed the weak parts of my case, and on what ground the French Authorities justified their proceedings? He replied, that they asserted that although the charge now existing against me did not warrant imprisonment, there had been another, viz. that of plotting the escape of the prisoners from the *Bicêtre*, for which I was legally liable to imprisonment. I answered that the warrant under which I was imprisoned proved that there was no such charge originally; that of such a charge there was not the shadow of proof; and that they might have accused me of any thing else, however absurd or extravagant, in the same way.

I mentioned instances of the interference of other Governments, even where the proceedings against their citizens had been warranted by the laws, yet that was considered as no excuse for injustice or atrocity. I ventured to add that, if no steps were taken, a door would be opened to every species of aggression; and if (as is necessarily the case under all bad governments) a native subject's exclusion from all redress should be deemed a reason for an Englishman's exclusion, if he should be unjustly treated, then all violence becomes sanctioned, and fraud or force would have all the character of legitimate authority. To avoid the repetition of facts that were notorious to him, I said I would confine my statement to the proofs that there had been originally no accusation against me which warranted imprisonment; and in consequence, I addressed to him on the following day the statement in Appendix, X. It demonstrates, I imagine, that there was no charge to authorize the acts of violence of the French Government; that I was arrested merely in the hope of extorting some evidence of any crime whatever that might be hit upon. On the 29th November I received a communication from the Foreign Office, requesting my attendance. Mr. Plunket told me; it was Mr. Canning's desire that I should abstain from any public discussion, lest it should embarrass his proceedings. I said I

wished to give the French Government an opportunity of repairing the wrong they had committed; and as the tone of what I should publish would a good deal depend on the steps they should take, I should wait the result of the discussions. If the Cabinet of the Tuilleries were disposed to make concessions, and to offer reparation for their haste and violence, they would be entitled to all the consideration which attaches to an honest avowal of error; but if, after their own acknowledgement of the wrong they had done, they should persist in denying redress, they would only increase the weight and the number of their acts of oppression, and merit no forbearance.

On the 12th December the letter (Appendix, Y) and the accompanying documents were received by me from Mr. Planta. The questions on which the opinion of the French Advocates is founded seem not to be very appropriate. I never deemed that an oppressed Frenchman had any chance of redress; for that would imply the existence of a liberal, instead of a despotic Government in France. If redress were obtainable in the ordinary course, I should not have needed the protection of the English Government. The principle referred to in Mr. Planta's communication, led me to suggest to him that the whole affair would be placed on a false basis, if they once admitted that the arbitrary power of any Govern-

ment whatever extended any further than over its own citizens. I apprehend the opinions of the two lawyers who were referred to, are founded on the documents furnished by the French Government itself; for instance, Appendix, T. They had no power of consulting the records of the jail at Boulogne, which would at once have proved, that the arrest had been originally defective and illegal.

Both of these Advocates pre-suppose that there were originally suspicions of other specified crimes; this pamphlet will have shown such a supposition to be unfounded. In the Opinion C, the sympathy with tyranny which runs throughout, and gives the document such a tone of complacent approbation of all the proceedings of the French Government, will hardly excite any wonder when coming from "a most distinguished Advocate in official situation," to use Mr. Planta's language. There is a great air of mystery in the reference to the circumstances of the case. 'There has been error. Yes! but every body must own, the error was very near the truth: it could not be nearer.' What does this mean, but that there was something to support the accusation which warranted imprisonment—something exceedingly strong—closely pressing upon legal proof? I trust the reader will refer to the public accuser's statement (Appendix, T), and estimate honestly the

value of our Advocate's opinion. The simple and honest assertion of this estimable man of law, that no *proofs* of crime are necessary for a man's arrest; falls strangely on an Englishman's ear; but the recommendation to bear the stripes of despotic power with complacency and gratitude, let *him* admire who may; and the stout conclusion, that "nobody in the world" has committed any thing like an arbitrary act against Mr. Bowring, is becoming the advocate of, and the participator in, arbitrary power. The rest of the opinion is delivered up to the admirers of special pleading, for their study and their approval.

As I had received from many quarters an expression of disappointment at the delay of my statement, I wrote (Appendix, Z) to Mr. Planta on the 3d of January; and on the following day (Appendix, AA) was requested to meet Mr. Planta at the Foreign Office on the 8th. My interview was delayed to the 9th; when Mr. P. read to me, from a paper he held in his hand, what he stated to be the decision of Government on my case; which was, as far as I recollect, to this purport—That the question of grievance resolved itself into a question of fact, whether or not I had been illegally used; and in the former case, that I had my personal remedy in the Courts of Law; that while I was the victim of persecution, they had deemed it right to interfere, but that as I was

now safe, they must abandon the affair to my own management; promising me, however, their countenance and support, in case I should determine to bring an action. I complained of the vagueness of this communication, and asked what was the nature of the protection they proffered. Mr. Planta said that they would direct the British Ambassador at Paris to see that I had every privilege which a Frenchman would have—that there should be no delay in the proceedings, &c. I then said that it was certain a Frenchman could obtain no redress for acts however despotic and atrocious; that the power of enforcing reparation for injuries done was, in fact, the test of good government, and made the distinction between despotic and constitutional rule; that were the Government of France a Government of law, no aggrieved individual would require foreign protection to have justice done him; that I had certainly considered they would never admit the principle, that an Englishman might be treated illegally and despotically with impunity, and that such would be a fatal precedent. Mr. Planta said, that Mr. Canning had been guided in his opinion by the counsel of eminent lawyers, both in England and France. I then requested that I might be favoured with a copy of the paper Mr. Planta had read, as I was most anxious, on so important a

subject, not to misrepresent Mr. Canning's views; and that I would not give them publicity in a documentary form, if any objection were felt to such publicity. Mr. Planta agreed that he would communicate to me very soon Mr. Canning's determination, with respect to a written declaration of the decision of Government; and on the following Tuesday (January 14) I received the letter given in Appendix, B B; and on the 19th, the final letter (Appendix, C C), which closed the communications with the Secretary for Foreign Affairs.

I did not quite anticipate such a termination. At an early period I had told Mr. Planta that if Mr. Canning thought there was no ground for interference—if I had been used no worse than a French subject might have been—every thing would then be ceded, and the discussions might terminate at once. He answered, that Mr. Canning had wished to ascertain what would be the situation of a French subject, for the purpose of clearing his way, and only as a preliminary measure.

I cannot go into an inquiry as to what might have been the means of obtaining reparation. I have recorded facts, which will present sufficient materials to enable those who have devoted themselves to the study of international law, to point out where the infractions have taken place, and

where and how the remedy is to be found. But I must refer with particular pleasure and particular gratitude to three able letters which have been published in the Morning Chronicle, signed E. S., where the subject is treated by one evidently its master.

I have now discharged a duty which I owed to society and to myself. These details will serve to unveil the character of the Bourbon Government of France. In these proceedings will be remarked all the coward ferocity of the ruffian towards the weak,—and the counterpart might be easily drawn—in their exhibition of all the prostrate servility of the abject towards the strong. Such is the Government restored by English influence—and this is the display of its gratitude towards English citizens. It is a Government standing in the midst of the tears it has caused, and the blood it has shed. It is a permanent insult to civilization,—a black stain upon humanity. It is the opprobrium of those who created, and those who support it; and should be outlawed by the unanimous execrations of mankind. Its capital and crowning crime has now been consummated. The invasion of Spain—an act whose infamy no indignation can compass, and no language sufficiently portray—has been decided on. Compared with this, all other atrocities look like

virtues. But the mask is worn no longer—the scabbard is thrown away.

I have been tempted a hundred times in the course of my narrative to arrest its progress, in order to express my proud and grateful feelings for that individual as well as that national sympathy which my imprisonment excited. I will refer to no exceptions ; they were so few, as to be wholly lost in the almost general voice of indignation against the French Government. The Ministerial Press, though at first disposed to conclude that the actions of the Ministry of France could not be so despotic, as they ultimately proved to have been, showed on this occasion such a fellow-feeling with their political opponents, as did infinite honour to the common character of the nation. I love my country better, and honour it more, after what I have witnessed ; and I have the bright consolation of believing that the evil I have undergone is infinitely less than the good which has resulted to the great cause of human happiness. My sufferings, in truth, have been quite lost in the new sources of enjoyment which they have opened to me. I should have been glad to have communicated individual thanks to hundreds—whose names, blended in my mind, with all the elements of gratitude and pleasure, will often

rush upon my memory and engage my habitual thoughts ; but I must here, and I must thus, discharge the debt I owe them.

The explanatory and justificatory documents which form the Appendix will, I trust, have their use ;—those especially which show the nature of judicial proceedings in France. Too little is known in England of the state of penal jurisprudence among our neighbours,—and documentary evidence, furnished by the officers of these courts, is not accessible on all occasions. I fear their tediousness,—but fear it less than the imputation of having concealed any thing I possessed, which might throw light on this singular affair, whether I deemed it favourable or unfavourable to myself.

APPENDIX.

[A]

Letter to the Mayor of Calais, dated 6th October 1822.

MONSIEUR LE MAIRE,

DANS la position où je me trouve, et voyant dans ma personne les droits nationaux et l'honneur de ma patrie comme de la vôtre compromis, je prendrai la liberté de vous faire quelques observations pour que l'on ne croie pas que je me suis soumis sans protestation à des mesures qui semblent peu analogues à l'état d'amitié et de paix qui, heureusement, existe entre nos deux pays.

Mes papiers ont été saisis, et vous en avez gardé quinze lettres et deux paquets. Je dois à la vérité et à moi-même de vous annoncer, foi d'homme d'honneur, que je ne connais rien de leur contenu. Ce n'est pas que je craigne l'examen de ces documents, leur contenu, je le repète, m'est inconnu, et quoiqu'il y ait parmi eux quelques lettres de mes amis particuliers, il y en a d'autres de personnes que je ne connais guères; mais je devais et je dois m'opposer à toute violation de la confiance placée dans celui qui se charge des lettres d'autrui.

Vous prendrez, sans doute, M. le Maire, votre détermination sur le sort des paquets saisis; mais permettez que je vous prévienne combien mes intérêts souffrent

de la détention de ma personne. Le seul retard d'un jour que j'ai déjà éprouvé, m'a été très fâcheux et onéreux, et j'ose espérer de votre justice, car je n'ai aucun motif de me plaindre de la manière dont vous avez exécuté votre pénible mission, que vous me permettez de m'embarquer sur le paquebot qui part demain matin.

Agréez, &c.

(Signé) JOHN BOWRING.

[*Translation.*]

UNDER the circumstances in which I am placed,—international rights having been violated in my person, and the honour of my country, as of your own, compromised,—I take the liberty of making some remarks, to prevent the inference, that I have submitted without protest to measures little analogous to the friendly and pacific relations existing between us.

My papers have been seized. Fifteen letters and two packets have been detained. It is due to truth and to myself to declare, on my honour, that I know nothing of their contents. It is not that I fear the examination of these sealed papers, some of which were delivered to my care by particular friends, and others by individuals little known to me; but I do and must resist all violation of that confidence which has been reposed in the bearer of them.

You will of course determine on the fate of these papers. Allow me, however, to recall to your mind how seriously my interests suffer from the detention of my person. The one day's delay that I have already experienced has been most annoying and injurious to me; and as I have hitherto had no cause to complain of the manner in which you have executed your

painful mission, I hope from your sense of justice that I shall be allowed to embark on board the packet which sails for England to-morrow morning.

Receive, &c.

(Signed) JOHN BOWRING.

[B]

Letter to the British Consul at Calais.

SIR,

Calais, Sunday, October 7th.

IN the very extraordinary situation in which I am placed,—the rights of hospitality violated in my person, my papers violently seized and arbitrarily examined,—I deem it my duty to make an appeal to you for your direct interference to protect my person and the persons of my countrymen from the repetition of proceedings so illegal and so unused. My passport having been taken from me, and the license to embark which was granted me on my arrival, I have now no protection but yours, which I venture to hope will extend over me its powerful shield.

Of the contents of the papers, which have been thus wrested from me, I beg solemnly to assure you I know absolutely nothing; that from the Portuguese Minister was brought to me at the moment of my starting by His Excellency himself, and the others were from individuals of whom I knew more or less, trusted to me in the common intercourse of society. Against their detention by the Police I protest, and trust that you will also protest. My own detention is to me most injurious, most seriously injurious; and I therefore venture to hope that your authority will interfere to

protect your countrymen from being trampled upon by acts of such despotic authority.

I have the honour to be, Sir,

Your obedient humble Servant,

(Signed) . J. BOWRING.

— *Marshall, Esq. H.B.M. Consul at Calais.*

P.S. As a vessel will sail to-night for England, I trust you will have the goodness to represent my case to the authorities, so as to enable me to proceed.

[C]

Letter to Sir Charles Stuart, H.B.M. Ambassador at Paris.

SIR,

Calais, Oct. 8, 1822.

I HAVE to entreat Your Excellency's immediate interference on my behalf, in a case in which the rights of hospitality, and the protection of my passport endorsed by you, have been grossly and illegally violated.

I visited Paris for my commercial concerns, and left it by the diligence on Thursday last. On my arrival here, I obtained the endorsement of my passport, and license for embarkation. When I reached the pier, I was arrested by the Agents of Police, and conducted with my baggage to the Mairie, where I was told that an order from Government had arrived for the examination of all my papers. I requested the attendance of the British Consul, which was granted: my trunk was opened, my papers were all read and examined, and fifteen sealed letters, with two sealed packets, one of them from the Portuguese Ambassa-

dor at Paris to the Portuguese Minister at London, bearing the arms of Portugal, and delivered into my own hands by M. d'Oliveira himself, were forcibly taken from me.

I beg leave to premise, that of the contents of all or any of these letters or packets, I am wholly ignorant—a fact which I offered to depose upon oath. Notwithstanding this, my passport was taken from me, and after a detention of two days, I have been delivered over to the gendarmerie, to be conducted to Boulogne, and delivered up to the Procureur du Roi, without any legal proceeding against me, without the knowledge of any one circumstance to justify an act so arbitrary and so atrocious.

I have now to put myself under your powerful protection, and to solicit your instant interference to rescue my person from imprisonment, and to uphold the important character of that nation you represent, whose citizens have no longer any protection from the laws. I have also to entreat that you will consult with the Minister of His Faithful Majesty, as to the means of vindicating those diplomatic privileges which have been so wantonly violated in my person, by the seizure of his official correspondence.

I have protested against acts which make your signature of no avail for the protection of British subjects; and though I know of no ground for the apprehension that any part of the correspondence which was entrusted to me bears a political character, I have protested against the horrible principle, that the bearer of a sealed letter, whose contents are unknown to him, can be made responsible for those contents. I submit all this to Your Excellency's consideration.

My commercial affairs are dreadfully suffering from this violent detention; it is impossible to calculate the consequences. I venture, therefore, to hope, that Your Excellency will take instant and effective measures for my release; and, referring to the report of the British Consul,

I have the honour to be Your Excellency's
Most obedient and most humble servant,
(Signed) JOHN BOWRING.

[D]

Sir Charles Stuart's Answer.

SIR,

Paris, October 14, 1822.

HAVING been apprised of the circumstances of your arrest at Calais, I had already demanded an explanation of the motives for this measure on the part of the French Minister before your letter of the 6th October reached me.

It appears by the answer I have received, that although provided with a regular passport to proceed from Paris to England, you are charged with having facilitated the conveyance of treasonable papers to England; which charge warrants the proceedings the Procureur du Roi is about to institute against you in the Tribunals of the Department du Pas de Calais.

Having enjoyed the protection of the French Laws during your residence here, you are of course amenable to the justice of the country for their infraction; and, unless I receive instruction from His Majesty's Government to protest against the prosecution, I can merely direct His Majesty Consul at Calais to watch over the proceedings which are about to commence,

and, to be careful that, as a British subject, you meet with the same justice which would be granted to a native under similar circumstances.

I have in the mean time submitted your case to His Majesty's Government, and have requested instruction for my further guidance.

I am, Sir,

Your most obedient humble servant,

(Signed) CHARLES STUART.

John Bowring, Esq.

This letter might serve as a text to many observations. In the 1st place,—The charge against me did *not* warrant the proceedings of the French Government, even according to French Law, setting aside the international question.

2dly. "You have enjoyed the *protection* of the French Laws." This is bitterly ironical;—the same sort of *protection* which King Stork gave to the frogs.

3dly. "As a British subject you will have the *same* justice which would be *granted* to a native." Very consoling this! The Star Chamber itself would blush for the Bourbon courts: and malevolence could desire no greater revenge than the tender mercies dealt out by the Ultra faction to their opponents. If the Sultan at Constantinople should (for he has an English Ambassador's authority) administer the *same* sort of *justice* to our countrymen which he grants to his *native* subjects, bow-string or impaling for instance, could our Government venture to complain?

In what, let me be allowed to ask, does the protection of the laws of France consist? To be at the

mercy of all that is arbitrary and violent ; to be dogged about by hired spies and incendiaries ; to be treated like a felon, without a single accusation of crime ; to be subjected to solitary confinement, and confounded with the vilest of mankind ; to be insulted by the hired servility of the press, and tortured by the inquisitorial questions of the magistracy—that is *protection* : and as for *law*, from tyrannical forms—from juries chosen by the Crown, or by the Prefêt, who is appointed by the Crown, and from Judges, who (with rare exceptions) are the servile and willing slaves of despotic will, what could be hoped for ?

[E]

Letter from the Procureur du Roi.

No. 20,232.

Boulogne, 15 8bre, 1822.

JE viens, Monsieur, de recevoir de M. le Procureur du Roi, près le Tribunal de 1ère instance du Département de la Seine, un mandat d'amener décerné contre vous par M. Mathias, Juge d'Instruction au même tribunal, le 14 de ce mois, et qui vous sera notifié dans la journée de demain.

Je dois, à ce sujet, vous faire connoître la disposition de l'article 100 du Code d'Instruction Criminelle, suivant laquelle disposition vous pouvez n'être pas contraint de vous rendre à ce mandat, au quel cas je décernerai contre vous un mandat de dépôt, dans les vingt quatre heures de l'exécution duquel j'en donnerai avis à M. le Juge d'Instruction Mathias, qui ensuite requerra M. le Juge d'Instruction à Boulogne, à qui il transmettra les pièces, notes, et renseignements relatifs aux faits dont vous êtes inculpé, de vous interroger à cet égard.

Je vous invite à me faire savoir, à la reception de la notification qui vous sera faite, si vous demandez à profiter de l'article précité du Code d'Instruction criminelle.

Je vous salue.

Le Procureur du Roi,

(Signé) CARON DE FROMENTEL.

A M. Bowring, Maison d'Arrêt à Boulogne.

[Translation.]

SIR,

Boulogne, 15th Oct. 1822.

I HAVE just received from the King's Advocate of the Primary Tribunal of the Department of the Seine, an order to produce you (or convey you) there, emanating from M. Mathias, Judge of Instruction (preliminary examination) at the same tribunal. It is dated the 14th inst. and will be notified to you to-morrow.

On this subject, I ought to make you acquainted with the dispositions of the 100dth article of the Code of Criminal Proceedings, according to which you may not be compelled to obey this order; and if so, I shall issue a warrant for your detention; and within 24 hours of the execution shall give notice of the same to the said M. Mathias, who will then require the Judge of Instruction, at Boulogne, to whom he will send the documents, notes, and informations, relative to the facts with which you are charged, that he may interrogate you thereupon.

I request you to inform me, on the receipt of the notification which is about to be made to you, whether you require to avail yourself of the benefit of the article referred to.

I salute you.

(Signed)

CARON DE FROMENTEL.

It will be observed, that all is mystery with respect to the accusations against me—"the facts with which you are charged," and nothing more.

"Vous pouvez n'être pas contraint." This is most vague and unsatisfactory, and therefore wholly in favour of despotism. It is not "vous ne pouvez pas être contraint." In Appendix [I] it will be seen that the protection for the accused becomes weaker still; and the words used are—"vous pouvez n'être pas contraint ainsi immédiatement."

[F]

My Answer.

M. LE PROCUREUR DU ROI,

JE viens de recevoir votre billet. Je ne le comprends pas tout à fait. J'espère qu'il me sera permis de voir ou un avocat ou le Vice Consul Anglais. Je me trouve entièrement abandonné, privé des moyens de communiquer soit avec mon Gouvernement, soit avec ma famille. Je ne sais pas si cela est légal, mais c'est bien cruel. Je ne fais aucun reproche à M. le Procureur du Roi, qui m'a traité avec bienveillance. J'ai l'honneur de vous saluer.

(Signé) J. BOWRING.

Boulogne, Maison d'Arrêt, 16 8bre, 1822.

[Translation.]

I HAVE just received your note, which I do not perfectly understand. I trust I may be permitted to see either a lawyer or the British Vice-Consul. I am entirely abandoned, and shut out from the means of making any communication either to my Government or to my family. I do not know if this is legal, but it

is most cruel. I do not complain of the personal conduct of the King's Advocate, who received me with much consideration. I have the honour to salute you.

[G]

Mandat d'Amener.

Le Tribunal de Première Instance du Département de la Seine.

De par la Loi et le Roi.

Nous, Jean Jacques Mathias, Juge d'Instruction près le Tribunal de Première Instance du Département de la Seine, mandons et ordonnons à tout Huissier ou Agent de la force publique, d'amener par devant nous, en se conformant à la loi, le sieur Bowring, Anglais, de présent détenu à Boulogne sur mer, pour être entendu sur les inculpations à lui faites. Requérons tout dépositaire de la force publique, de prêter main forte s'il en est requis pour l'exécution du présent mandat par le porteur de celui-ci; à l'effet de quoi l'ayons signé et scellé de notre sceau.

Fait au Palais de Justice à Paris, 14 8bre, 1822.

MATHIAS.

L'an 1822, Ici, 16 Octobre, à la requête de M. le Procureur du Roi, près le Tribunal de Première Instance du Département de la Seine, séant à Paris, le quel fait election de domicile en son parquet au dit lieu, Je L. H. Guillain, Père, Huissier, &c. &c., sousigné, signifie, et donne copie du mandat d'amener ci-dessus au Sieur Bowring, Anglais, détenu en la Maison d'Arrêt à Boulogne, en parlant à sa personne, avec sommation satisfaisante, lequel m'a déclaré qu'il était prêt à obéir au dit mandat, et se rendre par devant

qui de droit. En ce qu'il n'en ignore, je lui ai au dit lieu de la Maison d'Arrêt, et parlant comme dessus, laissé copie du dit mandat, &c.

GUILLAIN.

[*Translation.*]

The Tribunal of First Instance of the Department of the Seine.

By the authority of the Law and the King.

WE, John James Mathias, Judge of Instruction at the Tribunal of First Instance, of the Department of the Seine, command and order to every Huissier or Agent of the public force, to bring before us, according to the formalities of the law, Mr. Bowring, an Englishman, now detained at Boulogne, to be heard on the charges against him. We require all depositaries of the public force to lend their aid, if required, for the execution of the present order, by the bearer of this. To which effect we have signed and sealed it with our seal.

Done at the Palace of Justice, at Paris, the 14th October, 1822.

MATHIAS.

In the year 1822, on the 16th October, at the requirement of the King's Advocate at the Court of First Instance, in the department of the Seine, sitting at Paris, having chosen as the place of domicile his official seat, I, L. H. Guillain, sen. sign, signify, and give copy of the above warrant to the said Mr. Bowring, an Englishman, detained in the prison at Boulogne, speaking to himself and summoning him; on which he declared that he was ready to obey the said warrant, and to give himself up to the proper authori-

ties. And that he may not be ignorant, I have, in the said prison, left him copy of the said warrant, &c.

GUILLAIN.

This document states (I suppose it is only one of these legal fictions which are moral falsehoods) that I declared I was ready to obey the summons of the Judge of Instruction, and to appear before the lawful tribunal, meaning, of course, the tribunal which required my removal to Paris.

In the order for my transfer to Paris, the plural is used—"the *charges* against him:" but when I asked the huissier what they meant, he only shrugged up his shoulders, and moved off.

[H]

Refusal to obey Mandate.

Nous, Procureur du Roi près du Tribunal de Première Instance, séant à Boulogne, vu le mandat d'amener décerné le 14 de ce mois, par le Juge d'Instruction près le Tribunal de 1ère Instance du Département de la Seine, contre Bowring détenu à Boulogne, et légalement notifié par acte de ce jourd'hui au dit Bowring, qui déclare refuser d'obéir, pour les causes portées dans l'article 100 du Code d'Instruction Criminelle. Ordonnons au Concierge de la Maison d'Arrêt au dit Boulogne, de recevoir et garder en dépôt jusqu'à nouvel ordre, le dit Bowring aux termes du même article. Fait au dit Boulogne, ce 16 Octobre, 1822.

JEAN BAPT. L. MAX. CARON DE FROMONT.

L'an 1822, au 16 Octobre, à la requête du même

M. le Procureur du Roi, sousigné, exhibé, notifié et donné copie au dit J. Bowring, &c.

GUILLAIN.

[*Translation.*]

WE, the King's Advocate at the Tribunal of First Instance, sitting at Boulogne, in consequence of the Order issued the 14th of this month, by the Judge of Instruction of the Tribunal of First Instance of the Department of the Seine, for the removal of Bowring detained at Boulogne, and legally notified to him by an act of to-day; which the said Bowring refuses to obey, on the grounds stated in Article 100 of the Code of Criminal Instruction, Order the Jailer of the prison of the said Boulogne to receive and keep the said Bowring until further orders. Done at Boulogne, 16th October, 1822.

JOHN BAPT. L. MAX. CARON DE FROMONT.

The rest announces the notification of the above.

There is a strange anomaly between the documents G and H. - The first declares, falsely, my willingness to obey the order for my transfer to Paris,—the second avows just the contrary.

[1]

Letter from the Procureur du Roi.

No. 20,233.

Boulogne, 16 8bre, 1822.

JE vais, Monsieur, d'après votre lettre de ce jour, tâcher de rendre plus clair ce que je vous ai écrit hier à la reception du mandat d'amener décerné contre vous. L'effet de ce mandat est que vous soyez conduit à Paris devant le Juge d'Instruction Mathias pour être par lui interrogé sur les inculpations faites à votre

charge. Aux termes de l'article 100 du Code d'Instruction Criminelle vous pouvez n'être pas contraint de vous rendre ainsi immédiatement à Paris, et si tel est votre désir, vous devez l'exprimer par une demande formelle à cette fin. En ce cas, je décernerai contre vous mandat de dépôt, j'en donnerai avis à M. le Juge d'Instruction Mathias, et par suite il délèguera son collègue de Boulogne pour vous interroger ici. Ce sont donc vos intentions à cet égard que je vous invite à me faire connaître par écrit.

Quant à l'autorisation de communiquer soit avec un avocat, soit avec M. le Vice Consul Anglais, soit avec toute autre personne, je ne puis vous accorder cette autorisation, et, au surplus, dans l'état des choses, toute conférence avec des tiers serait absolument sans objet dans votre intérêt, au moins pour le moment.

Je vous salue.

Le Procureur du Roi,

(Signé)

CARON DE FROMENTEL.

A M. Bowring, Maison d'Arrêt à Boulogne.

[*Translation.*]

SIR,

I SHALL endeavour, according to your letter of this day, to make my letter of yesterday, which communicated the receipt of the order for the removal of your person, more intelligible to you.

The object of this order is to transfer you to Paris, in order that you may be there examined by M. Mathias, the Judge of Instruction, on the charges existing against you. By the tenor of the 100dth article of the Code of Criminal Proceedings, you may not be constrained to go to Paris immediately; and if such

is your wish, you must express it by a formal demand to that effect. In that case, I shall issue against you a warrant of detention—and shall give the Judge of Instruction, M. Mathias, notice of the same, and he will commission his colleague of Boulogne to interrogate you here. Your intentions then, in this particular, I wish to have communicated in writing.

With respect to the permission to hold intercourse, whether with a Lawyer, the British Vice-Consul,—or any other person—I cannot grant it; and besides, in the present state of things, any conference with a third person would be absolutely without any object, for your service, at least for the moment.

I salute you.

The King's Advocate,

(Signed) CARON DE FROMENTEL.

Nobody but a King's Advocate would have dreamed that, in my then situation, a desire to be allowed communication with, could be “absolutely without any object”,—and wholly unimportant to my happiness.

[K]

My Answer.

Maison d'Arrêt, 16 8hre, 1822.

IGNORANT les lois d'un pays étranger, privé de tous les moyens de communiquer soit avec un avocat français, soit avec les autorités de ma nation,—je ne puis que protester contre tous les actes de violence exercés sur ma personne. Je m'oppose à ce qu'on m'en mène par force à Paris ou ailleurs. L'on m'assure que les lois me donnent la faculté d'y résister. Je réclame leur protection. Mon Gouvernement, qui tôt ou tard

sera instruit de tout, saura soutenir la dignité de son caractère et les droits de mes concitoyens.

J'ai l'honneur de vous saluer.

(Signé) J. BOWRING.

A M. le Procureur du Roi à Boulogne.

[Translation.]

SIR,

Prison of Boulogne, 16th October, 1822.

UNACQUAINTED with the laws of a foreign country, and shut out from the power of either consulting a French lawyer, or any English authorities,—nothing is left me but to protest against all the acts of violence done to my person. I oppose any forcible removal either to Paris or elsewhere. I am assured that the laws authorize my opposition; and I invoke the protection of the laws. My Government, which sooner or later shall be informed of all that is passing, will know how to vindicate the dignity of its character, and the rights of my fellow-citizens.

I have the honour to salute you.

(Signed) J. BOWRING.

Letter to Sir Charles Stuart.

[L]

SIR,

Boulogne Prison, Oct. 24.

I HAD the honour to receive Your Excellency's letter of the 14th, only yesterday. The Procureur du Roi thought proper to prevent its reaching me in course.

The accusation against me, if any accusation really exists, appears to have taken a new direction; and the attempt which has been made to bring into it two honourable and distinguished English families will necessarily give rise to new discussions, to which I

shall have the honour of calling Your Excellency's attention, when my own case is disposed of. I beg leave now to inclose a letter which I have just written to Mr. Canning on the subject of my detention and the present state of the proceedings. I trust the moment is arrived, in which Your Excellency will deem it fit to interpose decidedly and peremptorily on my behalf. I feel obliged by what you have already done to alleviate my situation, and for the personal interest towards me which you have been pleased to express. I should do injustice to my feelings, if I did not at the same time mention the unwearied exertions of the British Vice-Consul here. They have been unremitting—and will *now* be availing.

I have the honour to be

Your Excellency's obedient servant,

(Signed) JOHN BOWRING.

His Excellency Sir Charles Stuart, &c. &c.

[M]

Letter to Mr. Canning.

SIR,

Boulogne Prison, Oct. 24, 1822.

AFTER thirteen days of solitary and severe confinement, I am permitted to address you. I have been shut out from all communication with my Government, my lawyer, or physician—with my family or friends. During this imprisonment, an attempt was made to remove me to Paris by a warrant from the Judges there. I resisted, and resisted successfully, under the protection of one of the Articles of the *Code de Procedure* (the 100th), which there was every disposition to violate. It would appear the Government

begins to feel that it has been too rash and arbitrary in its proceedings. I have undergone another long examination, secret as usual, and even the presence of an interpreter denied, though formally demanded. Four pages of interrogatories had been sent from Paris; not one question among them had a reference to that revolutionary correspondence "of which I was *suspected* of being the bearer," and on *that* plea, and that plea alone, delivered over to the various acts of outrage of which I have been, and still am, the victim. I again inquired with what I was charged, and demanded the act of accusation. None exists. The ground previously taken even seems abandoned. Some justification—some plea of justification, would of course be expected by you, and a long series of questions have been sent in consequence, some of which they deemed might *possibly* lead to a confession, or a detection which might palliate their arbitrary proceedings. They *suspect* me (they say)—though they venture not to *accuse* me, as the *procès verbal* will show—of being engaged in a plot with individuals (whom I had never seen), arranged in London (from whence I was far distant at the time), to rescue from prison (though I never heard even of the place of their confinement) the young men who were lately executed for political offences (with not an individual of whom had I ever any, the slightest intercourse). They *suspect* me of furnishing the pecuniary means for their escape (though not 1,000 francs have passed through my hands since I have been in this country). The charge is as visionary as it is false—it is false in the aggregate—it is false in every individual detail; but to support it, the whole machinery of a moral

torture (for the due operation of which a fortnight's sufferings are supposed to have prepared the victim) is put in action, and it is expected to entrap some new fact by a snare so widely and so artificially laid. Sir, it is from this monstrous system of inquisitorial cunning and violence, that I appeal to my country and to *you*. Abandoned to the resources of my own mind—a mind stronger, however, than all the strength of tyranny—I have hitherto had to struggle with every thing that artifice and oppression could direct against me. Abandoned among criminals, without so much as a single presumption, however weak, of crime.

It cannot surely be tolerated, that a man, and an Englishman, is to be hunted from suspicion to suspicion—each baseless or absurd, till something shall be found, or something shall be fancied, which may serve to veil the original acts of violence. If so, the ends of suspicious despotism are gained—the sufferings are inflicted—the innocent object of dislike is buried in his dungeon. This, Sir, cannot be done with impunity. I have confidence in the dignity of your character—I have confidence in the high spirit of my country. Some redress will be demanded for the past—some security will be obtained for the future.

I have the honour to be,

With every sentiment of respect, Sir,

Your most obedient and most humble servant,

(Signed) JOHN BOWRING.

*To the Right Honourable George Canning,
His Britannic Majesty's Secretary of
State for Foreign Affairs, &c. &c.*

[N]

Letter to Sir Charles Stuart.

Boulogne Prison, 26th October, 1822.

SIR,

I DEEM it right to inform Your Excellency of the progress of my extraordinary case, and to state that I have been again before the *Juge d'Instruction* nearly two hours to-day, and he tells me I may expect another examination of double the length on Monday. To-day, in my presence, were opened the sealed letters taken from me at Calais,—I suppose not for the first time, for I observed one of them (given me by Lady Oxford), of which I knew not the writer, was endorsed "Letter from Colonel Fabvier." I again protested against this violation of faith and honour; and declared, before the letters were read, that I knew nothing of their contents. I believe, however, (not that it can make any difference in my case,) that there is no one letter which can possibly compromise either me or any body else. The same trick, of attaching my name to a plot for the rescue of the young men from the *Bicêtre*, is carried on;—a charge, I repeat, which those who imagined it knew to be most false and wicked, and a mere blind for you and the British Government. I am perfectly sure that, in this state of things, you will require something more than a vague, absurd, and visionary declaration—that there are *suspicious* against me. While they can keep me thus in a common prison, from day to day, and from week to week, their end is answered; and they deem it sufficient to say to you, "This affair is in the hands of the Tribunals." But, be it allowed me to suggest, that they are bound to give Your Excellency a clear

and distinct knowledge of their accusations, and to show you that I am not the victim of proceedings purely arbitrary and unwarranted. Such *are* the proceedings under which I am suffering. I repeat, and with earnestness and strengthened conviction, that nothing has been done by the French Government, but to *bait* with lies, in order to entrap a *truth*—but I have nothing to conceal : and, though most abhorrent to my mind, and to my sense of right, I have answered honestly and truly all their interrogations. I am in the hands of my country, and of you, my country's representative ; and have the honour to be, &c. &c.

(Signed) JOHN BOWRING.

Sir Charles Stuart, H. B. M. Ambassador at Paris.

[O]

Extract of a Letter from the Solicitor to the Embassy at Paris, dated October 26, 1822.

SIR CHARLES STUART has evinced the steadiest zeal for your protection and comfort ; but the *nature* and *form* of the criminal or penal laws of this country (most repugnant, certainly, to the feelings of an Englishman) will not allow of his doing more than he has done, and will do, for your safety.

I think your trial will take place in Paris, where the most able counsel are to be had ; and I submit to you, however, that you will do well to have one from the *Côté Droit*. I presume you are aware that you are charged on suspicion of *Complicité de Trahison*.

[P]

Letter from Sir Charles Stuart.

SIR,

Paris, 31st October, 1822.

I HAVE received your letters of the 24th and 26th of October, together with the inclosure to which the former refers; and I have not only considered attentively the statements they contain, but have taken the opinion of different persons conversant in French law upon the subject, which will be explained to you at length by Mr. Manning.

Though the procedure adopted in your case is wholly incompatible with the principles of English jurisprudence, I am assured it is perfectly conformable to the law of France; and that even if the Government had consented to communicate officially to this Embassy every circumstance connected with the prosecution, my interference could not produce any change.

I trust, therefore, to the knowledge of Mr. Hédouin, who, I presume, will be charged with the conduct of your defence, to point out any irregularity, and to keep me sufficiently informed, through His Majesty's Consul, of the progress of the proceedings, to guide the further representations it may be necessary to address to the French Ministers on your behalf.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) CHAS. STUART.

John Bowring, Esq.

[Q]

Réponse aux Questions proposées.

LE droit des gens, dans tout pays civilisé, a ses bornes là où commence la puissance d'action des lois de ce pays.

En France, particulièrement, les lois de Police et de Sureté obligent tous ceux qui habitent le territoire. Cette règle de droit proclamée dans le titre préliminaire du Code Civil, forme le premier paragraphe de l'article 3 de ce Code. Elle ne souffre aucune contestation.

Il est naturel, sans doute, qu'au moment où l'étranger, admis sur le territoire Français, éprouve un trouble dans sa liberté par l'effet de l'action publique, il tourne ses regards vers le protecteur que son Souverain lui a donné, dans le Représentant de ce Souverain auprès de la France. Il ne l'est pas moins que la sollicitude de ce représentant s'exerce en faveur de l'étranger, soit avec toute spontanéité de la part du premier, soit parceque le second aura invoqué son appui. C'est ce qui constitue l'intervention diplomatique.

Mais une telle intervention ne saurait avoir même efficacité dans toutes circonstances, indifféramment non plus que dans tous les moments indéfiniment.

A l'égard des circonstances, le succès de l'intervention est possible dans les cas où nul citoyen ne se plaignant d'ailleurs ce fait n'est pas d'une nature grave, ou bien l'individu offre, dans sa personne, un caractère qui lie sa considération, en quelque sorte, à la dignité du Gouvernement étranger au nom duquel l'intervention en sa faveur a lieu.

Quant aux momens, la difference est grande, ou, pour mieux dire, elle est totale et décisive entre celui où l'étranger ne vient que d'éprouver le trouble dont il se plaint, et celui où par suite de ce trouble, il arrive entre les mains de la justice publique.

Au premier cas, et tant que le réclamant n'est que l'objet d'inquiétudes vagues qui viennent de dicter des précautions contre sa personne, sans que le ministère public l'ait encore à sa disposition, une intervention prompte et qui seconderait la nature, plus ou moins légère, du fait, pourrait avoir l'effet d'arrêter une action publique dans son développement légal.

Mais une fois que l'étranger se trouve mis à la disposition du *Procureur du Roi* par suite d'un fait qui engendre prévention de délit, toute force appartient à la loi du pays. Une intervention, même diplomatique, ne saurait arrêter l'action de cette loi. Il faut que les formes s'en épuisent, soit par le renvoi du prévenu, soit par la mise en accusation, et, par suite, en jugement.

Un acte d'accusation, d'après les lois de France, ne saurait exister ni n'existe jamais qu'en résultat d'une mise en accusation par celle des chambres d'une Cour Royale, à qui l'attribution de mettre en accusation est donnée. C'est alors, seulement, que le Procureur Général dresse ce que l'on appelle l'acte d'accusation. Jusquelà, soit avant la décision de la Chambre du Conseil de première instance, soit après cette décision, le prévenu connaît seulement par les interpellations qui lui sont faites, par le procès verbal qui est dressé, par l'interrogatoire ou les interrogatoires qu'il subit, le genre de la prévention qui existe contre

lui, et les causes apparentes qui ont forcé à s'assurer de sa personne. En un mot, un prévenu n'a ni à s'étonner, ni à se plaindre qu'un acte d'accusation ne lui ait pas été remis, tant que la procédure n'est pas arrivée à ce période qu'il soit accusé dans les formes de la loi. Car, tant qu'il n'est pas ainsi accusé, il n'est que prévenu. Aussi peut-il sortir d'affaire avec ce dernier caractère seulement, par une décision de la Chambre du Conseil du Tribunal de première instance, sauf l'opposition facultative au Procureur du Roi, ou à la partie civile (au cas de plainte par un citoyen) dans les vingt quatre heures de cette décision rendue.

Ni le droit des gens ni les lois d'un pays ne sont offensées par les variations qui pourraient se remarquer dans les élémens de la prévention publique dirigée contre l'étranger. Que ces élémens demeurent tels qu'ils auraient été d'abord présupposés et déclarés, ou bien qu'ils se chargent de nuances plus fortes, ou même, enfin, qu'ils prennent un tout autre caractère de criminalité, l'autorité publique n'en aura pas moins légitimement usé de son droit en s'assurant de la personne contre laquelle la poursuite a lieu. Avoir d'abord, cru être sur la trace de correspondances ennemies du Gouvernement établi, puis annoncer que le fait signale une complicité de trahison, ce n'en est pas moins rester dans les termes d'une grave inquiétude publique, par laquelle se justifient toujours les précautions prises contre la personne, et la poursuite dont celle-ci devient l'objet. Supposons (et ceci soit dit sans aucune intention de comparaison ou d'application qui puisse affliger l'étranger que ces réponses concernent), supposons la justice publique rencontrant le meurtrier là où elle ne recherchait que

le vol, l'atteinte portée à la liberté de l'homme, la poursuite contre lui n'en auront pas moins été un devoir et un droit de l'autorité publique. Le caractère définitif de tel ou tel délit recherché par les moyens de la loi, ne peut être et n'est fixé bien précisément que par le résultat de l'instruction : mais il n'y a nulle violation du droit des gens, ni infraction aux lois du pays dans la variation que peut subir la prévention primitive.

On n'est pas nécessairement criminel, encore moins inévitablement condamnable pour avoir été surpris porteur de lettres attentatoires dans leur contenu, à la sûreté d'un pays. Celui que la justice publique a saisi dans cette situation, a pu ignorer l'objet de telles lettres : il faut, pour que le prévenu devienne accusé et condamnable, qu'on acquière contre lui la preuve de la connaissance qu'il aura eue du fonds et du but d'une pareille correspondance. Les explications qu'il fournit sur les causes, plus ou moins naturelles, plus ou moins innocentes, de la présence de semblables pièces entre ses mains, ont une grande influence sur le sort de la prévention à laquelle elle l'ont exposé. Toute fois, comme le fait est très grave de sa nature, celui qui en est prévenu ne saurait espérer d'être renvoyé de la prévention, si ses explications ne sont pas pleinement rassurantes. On ne veut pas dire qu'il encoure, pour cela, une condamnation, mais seulement que sa mise en accusation en devient plus probable, sauf à ce que, devant la Cour d'assises, qui sera saisie du jugement, il réussisse à faire éclater son innocence.

It seems rather extraordinary that the opinion of

the *Batonnier* should have been consulted on the conduct of his Government. Such an opinion could not but be influenced by his position : as an advocate in case of trial, he was the first man to apply to ; but as a counsel, on the illegality of the proceeding of the French Ministry, the last. I do not accuse him of dishonesty,—but it must be vain to expect that he should be uninfluenced by his interests and by his political views. The questions referred to him do not appear.

[*Translation.*]

Answer to the proposed Questions.

THE *droit des gens*, (international right—or law of nations,) in all civilized countries, terminates where the action of the local laws begins*.

* This only assumes the existence of what is disputed, and avoids the question completely. An uncivilized country may have better laws than a civilized one ; and civilization may be accompanied with such laws as never were, and never could be applied to any but native citizens. There can be *no* law of nations, according to the *Batonnier*. The law of nations is the protection of foreign individuals against arbitrary acts. Arbitrary acts may be sanctioned by local law—surely international law is the only protection against them.

The sound principle is, and can only be, this—that a foreigner is entitled to *justice*. A subject citizen is supposed equally to be *entitled* to it ; but he has no power to enforce it. This situation of things constitutes despotism—that is, where wrongs can be inflicted for which there is no redress ; but a foreigner has other protection than the imperfect security offered by the local Government. He has a representative specially appointed to watch over his interests, and to see that he is not treated unjustly. A man may be impaled in

In France particularly, the laws of police and safety are binding on all who inhabit the territory. This is proclaimed in the preliminary title of the Civil Code, and forms the first paragraph of the third article of the code. This principle admits of no discussion*.

It is no doubt natural that a foreigner, admitted to the French territory, and finding his liberty interfered with by the action of the law, should look towards the protection which his Sovereign has given him in the representative of that Sovereign in France. It is not less natural that the solicitude of this representative should be exerted in favour of the foreigner, whether it be spontaneous on the part of the former, or invoked by the latter. This is what constitutes diplomatic interference†.

But such an interference cannot be equally successful in all circumstances indifferently, nor at all periods indefinitely.

Turkey—knouted to death in Russia—or hanged in Austrian Italy—and all according to the laws—and yet be innocent, since the laws give arbitrary power to the Judges. Now, were such laws applied to Englishmen, would the *legality* of violent outrages be held a sufficient excuse for them?

A more complete warrant for despotism can hardly be conceived, than this opinion of M. Batonnier Billecocq. That it should have satisfied an English Ambassador, is surprising.

* *Police and safety laws*—what are they? Where are they to be found? In what respect were they broken by me? There was no irregularity in any of my papers.

† But diplomatic interference is perfectly chimerical. It can neither prevent wrong, nor remedy wrong, nor obtain reparation for wrong. The foreigner in France is subject to all the freaks of uncontrolled and uncontrollable despotism—unless indeed, according to what follows, his *rank* entitles him to some special consideration.

As regards circumstances, the success of the interference is possible, where—there being no opposition on the part of any citizen—the fact is not of a serious character—or when the individual himself offers, in his own person, a character which attaches him, by his rank *, in some sort to the dignity of the foreign Government in whose behalf the interference takes place.

And with respect to time, the difference is great, or rather it is every thing; it is decisive, as between the first moment when the foreigner experiences the restraints of which he complains, and the moment when, in consequence of those restraints, he is delivered up to public justice †.

In the first case, and while the petitioner is only the object of vague suspicions, which require measures to be taken against his person, before the public minister has him in his hands—a speedy interference, guided by the character, more or less serious, of the accusation, might have the effect of preventing public proceedings in their legal course ‡.

* Aristocratical absurdity has gone to great lengths in France:—but that rank alone should entitle a man to justice, and to protection against aggression, may sound very sweetly to an Ultra's ear; but to one accustomed to admire the equal administration of the laws, such a state of things has no charms whatever.

† A very pretty chance, this, for protection! The time between the arrest and the commencement of the proceedings depending wholly on the will of the Magistrate.

‡ In my case the Telegraph was employed. In an hour and half the Ministers could communicate what I could only

But when the foreigner is once in the hands of the King's Advocate, in consequence of any fact which engenders a suspicion of crime *, all authority is vested in the laws of the country. An interference—even a diplomatic one, cannot oppose the progress of the laws. The proceedings must go on, and be terminated, either by the discharge of the suspected, or by the bill of indictment—and the trial which follows.

An act of accusation (indictment), according to the laws of France, cannot exist, and never does exist, but in consequence of a charge brought forward (*mise en accusation*) by one of the Chambers of the Royal Court, to whom the department belongs. It is only then that the King's Advocate prepares what is called the indictment. Up to that period, whether before the decision of the Chamber of First Instance, or after that decision, the accused can only know the nature of the charges against him, and the apparent causes which have led to his arrest,—by the interpellations which are made—by the *procès verbal* which is recorded, and by the questions which are asked. In a word, a suspected person ought not to be surprised, nor to complain, if no act of accusation is remitted to him till the proceedings have reached the

convey in two days. It would appear as if the French Government had determined to shut out the possibility of diplomatic interference—I being in the hands of justice (as they call it) long before the Ambassador could know of my detention.

* *A fact which engenders a suspicion of crime.* Certainly no Minister need scruple about arresting whom he pleases, when such a vague generality as this is sufficient to excuse him.

period when he is to be accused according to the forms of the law. For till he is so accused, he is but suspected; and he can only be released from the latter imputation by a decision of the Chamber of the Council of the Tribunal of First Instance—always excepting the facultative opposition of the King's Advocate; or (where a citizen interferes) be made subject to a civil action, within twenty-four hours after the decree is given*.

Neither the law of nations, nor the laws of the country, are broken by the variations which may take place in the elements of the proceedings against a foreigner—whether those elements remain what they were presumed and declared to be—or whether they assume darker shades—or even change altogether their character of criminality; still the public authority will not less properly have used its right in seizing the person against whom proceedings are directed. To have first been in the pursuit of corre-

* I deem it necessary to make no comment upon this part of the Batonnier's opinion. If it be sound, an Eastern Satrap might envy a Minister of France his despotic power.—What follows has the same character. A man may, *by a variation of the elements of the proceedings*, be examined on every charge that the penal statutes record, or the fancy can create. When no evidence can be found on one, he may be driven to defend himself from another. His crime is indefinite while his persecutor chooses to have it so; and when it is stated and disproved, or unproved—another crime may be taken up, and the wretch be compelled to run the inquisitorial gauntlet again. This the exemplary Batonnier tells the British Ambassador is law—and Englishmen must submit to it.

spondence inimical to the established Government; next, to announce that the facts point to a participation in treason; this is not the less to be within the bounds of serious public disquiet, which will always justify the precautions taken against the individual, and the proceedings of which he is the object. Let us suppose (and be it said without any intention of comparison or of application, which may wound the foreigner, whom these answers concern)—let us suppose that public justice should find murder, where it was in pursuit of larceny—the attack on the liberty of an individual, and the proceedings against him, would be equally a duty and a right of public authority. The definitive character of any crime, which is pursued by the agency of the law, cannot be, and is not fixed precisely, till after the examination (*instruction*); but there is no violation of the law of nations, nor infraction of the laws of the land, by the variations which the primary charge may undergo.

There is no necessary criminality, and yet less inevitable condemnation, in being the bearer of letters whose contents are dangerous to the safety of the country. He who is arrested in such circumstances, may be ignorant of their object. In order that the bearer should be accused, and liable to be condemned, a proof must be obtained of his knowledge of the nature and the objects of such a correspondence. The explanations which he gives on the causes—more or less likely—more or less innocent—of his being possessed of such documents, will have a great influence on the suspicions against him. But in every case, as the charge is very serious, he who is suspected of it must not hope to be released from the suspicion, if his

explanations are not amply satisfactory. It does not follow hence, that he will be certainly condemned, but only that his committal (*mise en accusation*) becomes more probable, unless he should be able, at the assizes, to make his innocence appear.

[R]

Extract of a Letter to the Solicitor to the Embassy.

I AM in the hands of arbitrary and insolent despotism, and complaint is unavailing. M. Hedouin has already written to M. Berryer, junior, on some of the violations of legal forms. A despotic Government may treat its own subjects despotically; but I have never heard that it has the same power over a stranger. The *Police* and *Sureté* regulations are subservient to the forms of justice—not superior to them.

If the French Government can proceed, as they have proceeded, and if it is an answer to an acknowledged and atrocious outrage, that the victim is in the hands of the tribunals, any individual may be thrown into a dungeon, and kept there during the good pleasure of the Government,—punished beforehand, till malevolence can satiate itself. A month has already passed—Is it not monstrous that I am not to know *why* I am detained? I have undergone six private examinations, in which there has not been the shadow of a fact to criminate me. I have been compelled to listen to the contents of letters of which I had been the bearer, though there was not among them a paragraph which had any reference to me, or of which I had any, the

slightest knowledge ; nor a paragraph for which any of the writers could be in any way responsible to the Tribunals. By and by I shall make, I trust, a more earnest appeal.

In the course of things, our un-English Alien Act is again and again referred to. Bad as it is, compared to this, it is the sting of a wasp to the wheel of Ixion.

Boulogne Prison, 3d Nov. 1822.

[S]

Second Letter to Mr. Canning.

SIR,

Boulogne Prison, 12th Nov. 1822.

My first duty is to thank you, which I do most cordially, for the kind attention and ready interference, which my extraordinary arrest and arbitrary detention have obtained at your hands.

But five weeks have already elapsed since I was consigned to this offensive prison, and I have not the prospect of deliverance, though up to this moment no accusation has been preferred. I was arrested by a proceeding which was, in fact, nothing but a *lettre de cachet*. I have been dragged forth to six secret interrogatories ; the answers to the last of which went to Paris nearly a fortnight ago. No construction can torture any thing which these interrogatories have elicited into a charge against me ; yet they still treat me as a criminal, not daring to bring forward an accusation of crime.

Whatever may be the power of a Government over its own subjects, it can have no possible right to make

a stranger the victim of pure and unqualified despotism: and to be told, as I have been told, that I am not treated worse than a native Frenchman would have been, is a miserable answer for one who has been habituated to see so many unhappy beings lingering from month to month in these abodes of misery, not knowing the cause of their arrest. An Englishman, however, may expect—I am sure he may expect it, from the known firmness of your character—an interference, strong enough to protect, and bold enough to rescue him from injustice, whatever form it may take, or whatever name it may assume. While delay can thus be added to delay, and one wretched subterfuge be allowed to replace another, an unaccused prisoner's sufferings are indefinite, and may be rendered interminable. If an innocent and oppressed Englishman is to be placed beyond the reach of his Government—if the eye of inquiry may not penetrate his cell—nor the arm of his country's dignity be stretched out for his protection—then, indeed, I must bow my head in silence, as I should in China or Japan.

But, Sir! I am in your hands, and in the hands of my country. The question is to be decided in my case, whether an Englishman, protected by his passport, and unaccused of crime, may be thrown into a dungeon, and kept there as long as it suits the good pleasure of his enemies. Whether, a *first* suspicion, and a *second* suspicion having been dissipated, he may be detained there, to be tormented by inquisitorial torturings, on the vague hope of extorting some third subject of accusation. Whether his very *opinions* are to be canvassed, and the sanctuary violated even of

his secret thoughts. On this subject I dare not express all my indignation ; it is tempered, indeed, by the assurance that my case has excited your attention and your serious interference ; and it is rather to record my conviction, that it cannot be abandoned by you, than to convey a doubt or a fear, that I again intrude.

I have the honour to be, Sir,
Your grateful obedient servant,

JOHN BOWRING.

*To the Right Honourable George Canning,
His Britannic Majesty's Secretary of
State for Foreign Affairs, &c. &c.*

[T]

Tribunal de Premiere Instance du Departement de
la Seine.

Ordonnance rendue en la Chambre du Conseil.

Copie. Nous Juges composant la 1re Chambre du Tribunal de Premiere Instance du Departement de la Seine, réunis en la Chambre du Conseil conformement à l'Article 127 du Code d'Instruction Criminelle,

Vu les pièces du procès et l'instruction faite contre Margues, le Lt. Colonel Dentzel, le Col. Fabvier, Guillé Latouche, Bowring, et le Vaillant inculpés de tentative de corruption du concierge de Bicêtre pour faire évader les condamnés de la conspiration de la Rochelle, et encore contre Bowring prévenu de contravention à l'arrêt du 5 Prairial an 9 ensemble les conclusions de M. Dehaim, Substitut de M. le Pro-

cureur du Roi du Tribunal de Première Instance du Département de la Seine, tendante à ce que Margues, le Lt. Colonel Dentzel, le Col. Fabvier, et Guillé Latouche soient renvoyés en Police Correctionnelle sur le fait de la tentative de la corruption qu'il soit déclaré n'y avoir lieu à suivre contre le Vaillant, et que Bowring soit renvoyé en Police Correctionnelle pour le fait de contravention.

Où le rapport de M. Jacque. Jean Mathias, l'un des Juges d'Instruction près ce Tribunal :

Attendu qu'il en résulte en ce qui touche Margues, qu'il a été arrêté au moment où il comptait dix mille francs au concierge de Bicêtre, qu'il a reconnu que cette somme lui avait été remise pour séduire ce concierge, et qu'elle faisait partie d'une somme de soixante mille francs qui devait être comptée au dit concierge lors de la remise qui serait par lui faite des condamnés, qu'indépendamment de cette somme de soixante mille francs on devait faire au concierge une pension viagère double de son traitement, et une à son oncle autre pension viagère de trois à quatre mille francs vieillard infirme qui demeure avec lui, et dont l'existence se serait trouvée compromise avec la sienne ; que le projet de faire évader les 4 condamnés fut agité pour la première fois au Kremlin chez le traître Belhomme, où il se trouva à dîner avec Dentzel ex Lt. Col. d'un corps où Belhomme avait servi ; que la proposition lui ayant été faite par Dentzel de profiter de l'accès que sa qualité de chirurgien interne du Bicêtre lui donnait dans la prison pour favoriser l'évasion des condamnés, cette proposition lui inspira d'abord de la défiance, parce qu'il n'avait jamais vu le Lt. Col. Dentzel, et qu'il ne consentit à ce qu'il y

fut donné suite qu'autant qu'elle lui serait renouvelée par un ami commun qu'il indiqua, ce qui eut lieu; que dès lors plusieurs rendezvous s'engagèrent successivement chez cet ami commun qu'il n'a pas voulu nommer; qu'une réunion plus nombreuse eut lieu sur le bord de la rivière à sept heures du soir au dessus de la verrerie de la Garre à cinquante pas dans les terres; que le Lt. Col. Dentzel faisait partie de cette réunion, et qu'un individu y avait été interpellé sous le nom du Col. Fabvier, et consulté sur les moyens d'évasion; que c'est dans cette réunion que le projet qui ne lui avait d'abord été présenté que comme un acte d'humanité, a pris dans la bouche du Col. Fabvier et du Lt. Colonel Dentzel un caractère politique; qu'on y a fait aussi l'observation qu'il manquait quinze mille francs sur les soixante mille francs qu'on devait promettre au concierge, et que ces MM. sans dire où ils les prendroient, annoncèrent qu'ils étaient bien surs de se les procurer; que la réunion dont il s'agit fut suivie le lendemain d'un déjeuner aux Maronniers à la Rapée; qu'il fut convenu que Margues s'y rendroit de son côté avec deux de ses amis, et le Lt. Colonel Dentzel du sien, pour n'être pas vu ensemble, et qu'ils se placeraient à deux tables différentes; qu'en se rendant de Bicêtre à la Rapée Margues avait remarqué un cavalier se promenant sur la rive gauche de la Seine, et qu'après avoir passé la rivière et s'être rendu aux Marronniers, Dentzel lui avait dit que ce cavalier était le Colonel Fabvier, qui inspectait les lieux, et notamment le cabaret dit du Garde de Chasse, où il avait été projeté que Margues donnerait à dîner au concierge avant qu'il ne fut arrêté; que ce dîner aurait lieu à

Bicêtre; qu'après le déjeuner Margues, ses deux amis et le Lt. Colonel Dentzel sortirent ensemble, et se promenèrent en suivant l'entrepôt des vins et le boulevard extérieur de la barrière du Trône; et que Dentzel remit de l'argent à Margues pour acheter le din deatx truffes et le vin de Champagne avec lesquels ils devaient donner à diner le lendemain au concierge de Bicêtre; que le lendemain ce diner a eu lieu dans la chambre de Margues; que Guillé Latouche et le Concierge y assistèrent seuls; que trente mille francs avaient été remis à Margues par l'intermédiaire d'un de ses amis dont il ne voulait pas faire connaître le nom pour le cas où le projet viendrait de recevoir de suite son exécution; mais que l'arrivée imprevue de l'inspecteur de la prison ayant interrompu les ouvertures qu'ils faisaient au concierge, et l'ayant obligé à les ajourner, il avait rendu les trente mille francs à celui qui les lui avait confiés; enfin que les dix mille francs qu'il comptait au concierge lorsqu'il fut arrêté lui avait été remis par l'intermédiaire d'un autre de ses amis qu'il ne voulait pas nommer plus que les précédents; mais que ni l'un ni l'autre de ces jeunes gens élèves en chirurgie comme lui n'avaient pu fournir de pareilles sommes de ses deniers, qu'il presumait qu'elles pouvaient leur avoir été remises par le Colonel Fabvier ou par le Lt. Colonel Dentzel, qui eux memes les tenaient d'une source plus élevée.

En ce qui touche le Lt.-Col. Dentzel.

Attendu que le diner chez Belhomme n'est pas nié par lui, que ce fait et les entretiens particuliers qu'il a eu avec Margues et Guillée Latouche, sont d'ailleurs attestés tant par Margues que par Belhomme et

sa femme, et qu'un autre témoin a remarqué, qu'ils mettaient dans leur conversation tant de chaleur et de mystère, qu'il avait pensé qu'il était question d'une affaire d'honneur entre Margues et Dentzel; que la réunion du bord de la rivière, confirmée par Margues dans sa confrontation avec Dentzel, n'a point été désavouée par lui; et que le rendezvous du lendemain aux Maronniers de la Rapée a été prouvée par la déclaration du Sieur Petit, qui a dîné avec Dentzel à la table voisine de celle où dînaient Margues et ses amis; qu'enfin dans sa confrontation avec Margues, Dentzel a formellement déclaré qu'il a co-opéré à la tentative d'évasion, et qu'il se réservait de s'en expliquer aux débats.

En ce qui touche le Col. Fabvier.

Attendu que sa présence dans la réunion qui a eu lieu sur le bord de la rivière est attestée par Margues, que si l'obscurité n'a pas permis à Margues de distinguer les traits du Col. Fabvier, et s'il s'est trouvé par conséquent dans l'impossibilité de le reconnaître, il résulte par plusieurs déclarations par lui faites et ci-dessus analysées, que le Col. Fabvier faisait réellement partie de cette réunion, ce qui n'a pas été désavoué par le Col. Dentzel.

En ce qui touche Guillée Latouche.

Attendu qu'il résulte des déclarations des témoins, qu'il était avec Margues et Dentzel chez Belhomme, et admis dans leurs entretiens confidentielles, qu'il a d'ailleurs assisté au dîner donné par Margues au Concierge de Bicêtre, et lors duquel ont eu lieu les premières tentatives de corruption, et qu'enfin sa disparition fait presumer qu'il n'a rien à opposer pour sa justification.

En ce qui touche Le Vaillant.

Attendu que la perquisition faite à son domicile n'a rien produit, et qu'il n'existe pas de charge contre lui.

En ce qui touche Bowring.

Attendu que le Col. Fabvier s'est rendu à la fin d'Août en Angleterre, dont il est révenu precipitamment, que Bowring a suivi presque immédiatement le Col. Fabvier à Paris, qu'il y est arrivé au moment où le projet d'évasion des quatre condamnés était agité avec le plus d'ardeur ; qu'il a été obligé de reconnaître qu'à son arrivée il avait eu plusieurs entrevues avec le Col. Fabvier, qu'il assigne à la vérité à ces entrevues une cause étrangère au projet dont il s'agit, mais dont il ne justifie en aucune manière ; qu'enfin il est reparti de Paris aussitôt que la tentative de corruption du Concierge ayant échoué, la justice s'est mise à la poursuite des auteurs et complices de cette tentative ; qu'il a été arrêté à Calais, chargé d'un grand nombre de dépêches, ou lettres cachetées, en contravention à l'arrêt du 5 Prairial, An 9 ; au nombre desquelles se trouve une du Col. Fabvier au Comte St. Marsan, réfugié Piémontais, dans laquelle il est question de relations mystérieuses et de projets hostiles contre le Gouvernement, et porteur des écrits les plus outrageans contre le Roi, les Princes de sa famille, et le Gouvernement ; mais que quelque graves que soient les présomptions qui naissent de ce concours de circonstances, et quoiqu'elles aient dû rendre son arrestation nécessaire, elles ne constituent pas quant à présent des charges suffisantes pour établir une prévention légale.

Attendu que des faits ci-dessus, il résulte qu'il y a charges suffisantes contre Margues, le Lt. Col. Dentzel,

le Col. Fabvier, et Guillée Latouche d'avoir de complicité tenté de corrompre par promesses, offres, dons, et presens le Concierge de la Maison de Bicêtre, et par conséquent un fonctionnaire public, agent d'un préposé d'une administration publique pour obtenir l'évasion de quatre individus condamnés à la peine capitale, qui étaient sous la garde, délit prévu, et puni par l'Article 179 du Code Penal.

La Chambre conformément à l'Article 130 du Code d'Instruction Criminelle renvoie les nommés Margues, le Lieut. Col. Dentzel, le Col. Fabvier, et Guillée Latouche en Police Correctionnelle pour y être jugés conformément à la loi. Declare qu'il n'y a rien à suivre contre le Vaillant. Declare qu'il n'y a rien à suivre contre Bowring relativement au chef de la tentative de corruption seulement; mais attendu que Bowring se trouve en contravention a l'arrêté du 5 Prairial An 9, comme porteur de dépêches ou lettres cachetées, renvoie en chef Bowring en Police Correctionnelle, et ordonne néanmoins sa mise en liberté, attendu que la contravention dont il est prevenu n'emporte pas la peine d'emprisonnement.

Donne acte au Ministre de ses reserves de poursuivre les auteurs et distributeurs des écrits outrageans pour le Roi, la famille royale, et le Gouvernement, lesquels écrits ont été saisis sur Bowring.

Ordonne en consequence, que les dits écrits resteront déposés au Greffe du Tribunal comme pieces du procès pour en être les auteurs et distributeurs poursuivis conformément à la loi, et pour être les poursuites reprises contre Bowring dans le cas où il auroit lui-même publié ces écrits, ou participé à leur publication en France. Donne acte également au

Ministre Public de reserve contre tous auteurs ou complices de la tentative de corruption.

Fait en la Chambre du Conseil le 12 Nov. 1822.

(Signé)

Mathias Bergeron d'Anguy,

Guillon d'Ilnas Grandet,

Pour copie conforme

Le Procureur du Roi,

(Signé)

JACQUINOT PAMPLUNE.

[*Translation.*]

Tribunal of First Instance of the Department of the Seine.

Ordonnance issued from the Council Chamber.

Copy.—**WE** the Judges of the Fifth Chamber of the Tribunal of First Instance of the Department of the Seine, united in the Council Chamber according to the 127th Article of the Code of Criminal Proceedings; Having examined the documents of the charge and the evidence against Margues, Lieut. Col. Dentzel, Colonel Fabvier, Guillé Latouche, Bowring and Le Vaillant, charged with an attempt to corrupt the jailer of the *Bicêtre*, in order to obtain the rescue of the persons condemned for the conspiracy of La Rochelle, and further against Bowring charged with a breach of the decree of the 5 Prairial of the year 9; and having heard the demands of M. Dehaim, substitute for the King's Advocate, That Margues, Dentzel, Fabvier, and Latouche shall be handed over to the Correctional Police for the attempt to corrupt; that it be declared there is no cause for further proceedings against Le Vail-

lant, and that Bowring be handed over to the Correctional Police for the breach.

Having heard the report of Mr. James John Mathias, one of the Judges of Instruction of this Tribunal, and seeing that, as far as regards Margues, he was arrested while counting 10,000 francs to the jailer of the *Bicêtre*, and that he has owned and declared that this sum had been given to him to bribe the said jailer, and that it formed a part of 60,000 francs to be paid to him when he should deliver up the condemned: That, independently of this sum of 60,000 francs, an annuity was to be given to the jailer of double the amount of his salary, and another annuity of 3 to 4000 francs to his old infirm uncle, whose existence was connected with his own: That the project for effecting the escape of the four condemned persons was first agitated at the Kremlin in the house of Belhomme (traiteur) where he dined with Dentzel, ex-Lieut. Col. of a corps in which Belhomme had served: That the proposition having been made him by Dentzel to avail himself of the access which his situation as a medical man gave him to the prison to favour the escape of the condemned: That the proposal first excited his mistrust, as he had never seen Lieut. Col. Dentzel, and that he only consented thereto on condition of its coming through a common friend whom he named; and it was so done: That from this time several appointments were made at the house of this mutual friend, whom he refuses to name, and that a more numerous meeting took place on the banks of the river at 7 o'clock in the evening above the glass-house of La Garre at the distance of 50 feet from the river: That Dentzel was one at the meeting: That an indivi-

dual was there called by the name of Col. Fabvier, and consulted about the means of escape: That it was at this meeting that the project which was at first presented only as an act of humanity, took a political character from the lips of Col. Fabvier, and Lieut. Col. Dentzel: That the observation was made that 15,000 francs were wanting to make up the 60,000 which were to be promised to the jailer; and that these gentlemen, without stating where they were to be obtained, declared they were quite sure of obtaining them: That this meeting was followed by a breakfast the next day at the Marronniers à la Rapée: That it was agreed that Margues should come with two of his friends from his side and Lt. Col. Dentzel from his, in order not to be seen together, and that they should place themselves at two different tables: That in going from the *Bicêtre* to La Rapée, Margues had remarked a gentleman riding on the left bank of the Seine, and that after having passed the river and reached the Maronniers, Dentzel said that it was Col. Fabvier inspecting the spots, and especially the cabaret called of the Guards de Chasse, where it had been projected that Margues should give a dinner to the jailer before it was decided that it should be at the *Bicêtre*: That after breakfast Margues, his two friends, and Lieut. Col. Dentzel, went out together and walked by the wine-stores, and the outer boulevard of the *Trône Barrière*; and that Dentzel handed money to Margues to buy the truffled turkey, the Champagne, with which a dinner was to be given to the jailer of *Bicêtre*: That this dinner took place next day in Margues' chamber: That Guillé Latouché and the jailer were then alone: That 30,000 francs had been given to

Margues by the intervention of one of his friends, whose name he would not communicate, till the project could be carried into effect; but that the unexpected arrival of the prison inspector having interrupted the offers which were made to the jailer, and having obliged him to adjourn them, he returned the 30,000 franks to the person from whom he had received them; in a word, that the 10,000 franks which he was counting to the jailer at the moment of his arrest had been handed to him by the mediation of another of his friends, whom he would not name any more than the former: but that neither of these young people, being surgical students, could have furnished such sums from their own resources, and that he presumes they had been remitted by Col. Fabvier or Lt. Col. Dentzel, who had themselves received them from a higher source.

In what regards Liéut. Col. Dentzel:

Whereas the dinner at Belhomme's is not denied by him: that this fact, and the particular interviews which he has had with Margues and Guillé Latouche, are attested alike by Margues and Belhomme and his wife, and that another witness has declared there was so much of warmth and mystery in their conversation, that he imagined it referred to some affair of honour between Margues and Dentzel: That the meeting on the banks of the river, confirmed by Margues when confronted with Dentzel, has not been disavowed by him, and that the rendezvous of the next day at the Marronniers de la Rapée has been proved by the declaration of M. Petit, who breakfasted with Dentzel at the next table to that where were Margues and his friends: and finally, That Dentzel, when confronted with Margues, formally declared that he

had co-operated for the rescue, and reserved other explanation till the trial.

And in what regards Colonel Fabvier :

Seeing that his presence at the meeting which took place on the banks of the river is attested by Margues—and though the darkness prevented his distinguishing the features of Col. Fabvier, and it was in consequence impossible for him to recognise him, it results from several of his declarations, and from the above statements, that Colonel Fabvier was really present ; which is not denied by Colonel Dentzel.

In what respects Guillé Latouche :

Seeing that it results from the declaration of the witnesses, that he was with Margues and Dentzel at Belhomme's, and admitted to their confidential communications—that he was also present at the dinner given by Margues to the *Bicêtre* jailer when the first attempts at bribery were made ; and, finally, that his disappearance proves that he has nothing to offer in his justification.

In what concerns Le Vaillant :

Seeing that the search made at his dwelling has produced nothing, and there is no charge against him.

In what regards Bowring :

Seeing that Colonel Fabvier went to England at the end of August, from whence he returned precipitately : That Bowring followed him almost immediately to Paris, and arrived there at the moment when the project of releasing the four condemned persons was pursued with the greatest eagerness : That he has been obliged to own that on his arrival he had several interviews with Col. Fabvier : That he has assigned, in truth, to those interviews, a cause remote from the

project, but does not, by any means, justify his statements : That, finally, he left Paris as soon as the attempt at bribery had failed and that justice was pursuing its authors and accomplices : That he was arrested at Calais, bearing a great number of dispatches or sealed letters, in breach of the decree of the 5 Prairial of the year 9, in the number of which was one from Col. Fabvier to Count St. Marsan, a Piedmontese refugee, which treats of mysterious relations and plans hostile to the Government, and bearer of the most outrageous writings against the King, the Princes of his Royal Family, and the Government. But however serious the presumptions may be which result from this concurrence of circumstances, and though they may have made his arrest necessary, they do not constitute for the present sufficient evidence to establish a legal charge.

Seeing that it results from the above facts that there are sufficient charges against Margues, Lt. Col. Dentzel, Col. Fabvier, and Guillée Latouche, of having conspired to corrupt, by promises, offers, gifts, and presents, the jailer of the *Bicêtre* prison, and in consequence a public functionary, agent of the public administration, to obtain the escape of four individuals, condemned to capital punishment, who were in his keeping : a crime, described and punished by the 179th Article of the Penal Code.

The Chamber, conformably to the 130th Article of Criminal Instruction, hands over the said Margues, Lt. Col. Dentzel, Col. Fabvier, and Guillée Latouche, to the Correctional Police, to be judged according to the law :

Declares that there is no ground against LeVaillant :

Declares that there is no ground for proceeding against Bowring

With respect to the accusation of the attempt at bribery only; but seeing that Bowring in breach of the decree of the 5 Prairial, year 9, is the bearer of dispatches or sealed letters, hands him over on this charge to the Correctional Police, and orders that he shall be set at liberty as the said breach does not bear the penalty of imprisonment:

Allows the public Minister to reserve the right of pursuing the authors and distributors of the writings outraging the King, the Royal Family, and the Government, which writings have been seized on Bowring:

Orders, in consequence, that the said writings shall be deposited in the Archives of the Tribunal, as documents in this cause, that the authors and distributors may be pursued according to the law: and that the action may be recommenced against Bowring, if he himself should have published these writings, or have participated in their publication in France:

Allows the public Minister his rights against all authors or accomplices in the attempt at bribery.

Done in the Chamber of Counsel, 12th November, 1822.

(Signed) MATHIAS BERGERON D'ANGUY,
GUILLON D'ILNAS GRANDET.

Certified copy,

(Signed) JACQUINOT PAMPLUNE,
King's Advocate.

I might say much on the misstatements strung together here. It appeared on the trial, that Margues had

never received more than forty francs from Dentzel : that Margues never said that Dentzel had paid him the sum referred to : that Fabvier had never been present at any of the meetings, nor had he even been in the neighbourhood : and that the pressing importunities of the *Juge d'Instruction* had extorted falsehoods from the lips of the witnesses.

[U]

Letter from Sir Charles Stuart.

SIR,

Paris, 14th Nov. 1822.

I HAVE at length received from the *Garde des Sceaux* the accompanying copy of the Resolutions of the Chamber du Conseil of the Tribunal de Première Instance in his Département, upon your case, and I am happy to observe, that they find there is no ground for proceedings against you ; and that you are liberated under the restrictions which are pointed out. I congratulate you upon a result which restores you to the society of your family and friends ; and I wait for the further orders His Majesty's Government may think it expedient to send me upon the subject.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed)

CHARLES STUART.

[V]

No. 20,481.

Boulogne, 15 9bre, 1822.

JE vous previens, Monsieur, qu'en consequence d'ordonnance rendu par la Chambre du Conseil du

Tribunal de 1^e instance du Departement de la Seine
le 12 de ce mois, et portant que, vous trouvant en con-
travention à l'arrêté du 5 Prairial an 9, comme por-
teur de dépêches ou lettres cachetées, vous êtes renvoyé
sur ce Chef en Police Correctionnelle, et que néanmoins
vous serez mis en liberté, attendu que la contravention
dont vous êtes prevenu n'emporte pas la peine d'em-
prisonnement. Je preseris au Concierge de la Maison
d'Arrêt d'effectuer aussitot votre élargissement.

Je vous salue.

Le Procureur du Roi,

(Signé)

CARON DE FROMENTEL.

Il n'y a pas de difficulté d'après la lettre qui pré-
cède, à ce que le passeport de Monsieur Bowring lui
soit remis.

(Signé)

CARON DE FROMENTEL.

[W]

Letter from Joseph Planta, Esq.

SIR,

Foreign-Office, Nov. 15, 1822.

I AM directed by Mr. Canning to acknowledge the
receipt of your letter of the 12th instant, and to as-
sure you (as indeed you appear to be well convinced)
that your case has not been out of his contemplation.
Mr. Canning received yesterday from Sir Charles
Stuart a dispatch, conveying a positive assurance on
the part of the French Government, that he (Sir
Charles) should certainly be made acquainted with
the result of the deliberations of the Chambre de Pre-
miere Instance in the course of a day or two at the
furthest.

It is confidently hoped, therefore, that there will be no further delay in bringing the charge against you to an issue.

I am, Sir,
Your most obedient humble servant,
(Signed) JOSEPH PLANTA, Jun.

[X]

Third Letter to Mr. Canning.

SIR,

London Fields, Hackney,
21st Nov. 1832.

I BEG leave to send you the following statement of some of the facts connected with my arrest and imprisonment, proving the illegality of the original seizure and subsequent detention of my person.

I left Paris on the 3d of October, by the diligence, and reached Calais on the 5th. On the 6th, having been furnished with proper licenses for embarkation, I went down with my baggage to the pier, and was there stopped by the Commissary of Police, who conducted me with my portmanteau to the Mairie, and stated that he had orders to examine my papers. I dispatched a friend to the British Consul, requiring his presence,—and demanded the authority by which I was stopped. This they declined to produce; but on a personal application to the Mayor, he directed that it should be shown to me. It was a telegraphic dispatch from the Minister of the Interior, requiring him to examine my papers, I being “suspected of bearing letters to the revolutionists in England” (*soup-*

sonné d'être porteur de lettres aux revolutionnaires en Angleterre); and this dispatch, which, it cannot but strike you, gives no directions for my arrest, was confirmed by a similar communication by the Post of the same date. (I think it was dated Paris, 1st of October.) My papers were, in consequence, examined, and seventeen sealed letters and packets taken from me; among them, the dispatches of the Portuguese Minister at Paris to the Portuguese Minister here. Among my own papers nothing was found of a political character, excepting two songs and a fragment in bad English, which had been left at my lodgings in an envelope;—and no attempt was then made to detain my person, though my passport was not delivered to me, and I was ordered to wait the decision of the Minister at Paris. The papers seized were then deposited in the Mairie,—and on the 8th of October, another telegraphic dispatch, in answer to that which had announced the detention of the letters, &c. arrived, and was communicated to me by the Mayor, to whom I had been a second time conducted by the gendarmerie. It was in these words—“ Arrest Bowring. Deliver him over to the Procureur du Roi. Send on the seized papers to Paris.” I was then conducted to the loathsome prison of Calais, and on the following day was removed to Boulogne, and taken to the abode of the Procureur du Roi. I underwent an interrogatory on the 9th, which referred to nothing but the dispatches and papers seized. I asked the Procureur du Roi what was the charge against me, which he said, was being the bearer of sealed letters; and he directed me to be escorted to the prison at Boulogne, giving an order to

the jailer, for the receipt of my person, in these words,—"Receive Bowring—arrested on suspicion of being the bearer of sealed letters to the revolutionists in England." Of this warrant, a copy may be obtained from the jail books. On the following day I was again led forth to be interrogated by the *Juge d'Instruction*. The interrogatory concerned nothing but the papers seized—and he informed me that I was confined for having broken the fiscal decree of the year 9, prohibiting the conveyance of sealed letters. On the 11th I was put into solitary confinement, and deprived of all means of communication whatever. It would appear by Mr. Planta's letter, of the 17th October, to Mrs. Bowring, that up to that period no other accusation had been thought of by the French Government. On the 23d of October, I was again interrogated by the *Juge d'Instruction*, and was told, for the first time, that I was suspected of being concerned in a plot for the liberation of individuals who had been executed for political offences, with sundry other persons, and among them the families of Lady Oxford and Mr. Hutchinson;—though for such a charge there was not the slightest shadow of evidence, as my unreserved answer to every interrogatory must have demonstrated. I was at Paris a fortnight after the execution of the young men, whose liberation they pretended I had endeavoured to effect. I obtained my passport on the very day on which the order was sent to examine my papers at Calais. Some difficulty was made in giving me a passport; and on the 2d of October a spy of the Police came to my lodgings, whose report I saw lying on the Mayor's table at Calais; so it cannot be pretended

that the cause of my arrest was any other than that originally mentioned. In truth, though I underwent two or three interrogatories afterwards, the second charge was never again referred to; and the subsequent questionings related to a variety of matters wholly arising out of, or pretending to arise out of, the contents of the sealed letters,—the obvious intention being to make me accountable for their contents. A fortnight elapsed after the last interrogatory, before any reply was received from Paris. It came in the form that is known to you. “To the accusation against you the penalty of imprisonment does not attach, and you are ordered to be set at liberty.” It is most clear that every after attempt at crimination was only intended to veil the illegal and arbitrary arrest—the result of an anxiety to justify it in the eyes of a Government, whose prompt interference on my behalf surprised and perplexed them. Their hesitation—their refusal to communicate the grounds or the nature of their proceedings to His Majesty’s Ambassador, showed that I was to be punished, not for any thing they had found, but for something they had yet to seek. The opinion of M. Hedouin, chosen by Sir Charles Stuart, on the recommendation of M. Berryer, junior, and of every French lawyer whom I have consulted, is, that my right to redress is obvious and irresistible. The circumstances of my case are so outrageous in their origin and progress, and so disgraceful to the French Government in their close, that I can hardly doubt your suggestions will produce a prompt recognition of my right to reparation. I am most proud to think that my country’s honour and dig-

nity, so cruelly wounded in my person, are in hands like yours; and with perfect confidence in your interference,

I have the honour to be, &c.

JOHN BOWRING.

*The Right Hon. George Canning,
His Majesty's Secretary of State
for Foreign Affairs, &c.*

[Y]

Letter from Joseph Planta, Esq.

SIR,

Foreign Office, Dec. 12, 1832.

I AM directed by Mr. Secretary Canning to inform you that Mr. Canning, having instructed His Majesty's Ambassador at Paris to obtain the best legal opinions of the French Bar, as to the redress to which a French subject would be entitled, in case of imprisonment similar to yours, and as to the mode in which such redress should be sought, Sir Charles Stuart has caused to be submitted to two of the most leading Advocates in the Courts of Law at Paris (one of them in official station, the other in confidence and employment of the popular party), the three questions which you will find in the inclosed paper A; to which have been returned the answers in papers B and C. The names of the Counsel are omitted in these copies; but if you have any wish to know them, and will take the trouble to call, or send any friend of yours to the Foreign Office, I shall be happy to communicate them.

I am, Sir, &c.

(Signed) JOSEPH PLANTA, JUN.

(A.)

1ere Question—L'arrestation de M. Bowring a-t-elle été légale ou justifiable d'après la jurisprudence Française, ou les lois de police et de sureté ?

2nde—Si M. — est d'avis que les lois du pays ne justifient point l'arrestation dans les circonstances annoncées, ces mêmes lois offrent-elles à M. Bowring le remède d'une action en dommages intérêts contre l'officier public qui l'a arrêté, ou celui qui l'a fait arrêter, et qui est la personne responsable en pareil cas ?

3me—Quand même M. — serait d'avis que l'arrestation ait été justifiable par les circonstances spéciales de l'espèce, et que cette arrestation ait été la suite d'une dénonciation privée, ou des soupçons de la haute police (l'un et l'autre mal fondés comme il est constant), M. Bowring pourrait-il toujours avoir recours à l'action indiquée avec l'espoir de succès devant les Tribunaux Français ?

(B.)

Sur la premiere question le Conseil ne voit rien dans les pièces qui lui sont soumises, qui signale aucune irregularité dans l'arrestation de M. Bowring. Le Conseil n'a point ici à examiner si notre législation criminelle ne serait pas susceptible de grandes ameliorations. Il n'a point à s'expliquer comme publiciste ; mais comme avocat, dans son opinion particuliere il pense que la liberté individuelle en France aurait besoin d'autres garanties que celles qui existent ; mais n'ayant à se prononcer que sur ce qui est et non sur ce qui devrait être, il declare qu'on n'a rien fait à l'égard de M. Bowring, que ce qu'on aurait

pû se permettre dans les mêmes circonstances à l'égard d'un Français.

Sans doute et en dernière analyse, M. Bowring ne s'est trouvé coupable d'aucune crime ou délit qui pût légitimer après coup la rigueur dont d'abord il a été l'objet. L'ordonnance de la Chambre du Conseil elle-même le reconnaît, puisqu'elle prescrit sa mise en liberté par le motif que la contravention dont il reste finalement prévu n'emporte pas la peine d'emprisonnement.

Mais il n'en est pas moins vrai, que si tel a été le résultat final de l'arrestation, il paraît par l'ordonnance que dans l'origine M. Bowring avait été soupçonné d'autres délits, sans doute il est cruel pour des pareils soupçons, lorsqu'en suite ils ne se trouvent pas fondés, de perdre d'abord sa liberté. C'est une rigueur que je n'approuve point *in abstracto*; mais dans l'état actuel de notre législation rien n'est plus fréquent que ces sortes d'arrestation; et M. Fabvier, dont M. Bowring était soupçonné d'être le complice, en est une preuve frappante. Il a été reconnu innocent, et cependant il n'en a pas moins été captif jusqu'au jour de jugement qui l'absout et même quelques jours au delà pour attendre que le ministre public eût laissé passer le délai d'appel.

Ainsi tout en déplorant qu'un homme reconnu non coupable ait été cependant privé de sa liberté pendant un tems plus ou moins long, il faut reconnaître que dans l'espèce l'arrestation n'a rien eu d'illégal, rien qui ne fût autorisé par la loi contre M. Bowring, rien qui de fait n'ait été pratiqué à l'encontre d'un Français également victime de préventions qui

se sont trouvées n'avoir eu aucun fondement, M. le Col. Fabvier.

Sur la seconde question, le Conseil désirerait que nos lois autorisassent un recours en dommages intérêts contre tout officier public qui usant mal de son pouvoir aurait imprudemment porté atteinte à la liberté d'un homme citoyen ou étranger : mais telle n'est point la législation en France. D'une part la loi n'autorise pas l'action d'un citoyen contre un fonctionnaire, que lorsque ce fonctionnaire a agi en contravention formelle de la loi ; et ici il n'apporte d'aucun vice de forme dans la mode d'arrestation ; d'autre part elle ne permet cette action que sous le bon plaisir du Conseil d'Etat auquel d'après l'article 75 de la Constitution Imperiale de l'an 8 il faut recourir pour obtenir l'autorisation de poursuivre le fonctionnaire dont on se plaint, et qui n'accorderait certainement pas dans l'espèce, parce qu'il n'existe pas de preuve que ceux des fonctionnaires qui ont concouru à l'arrestation aient excédé ses pouvoirs.

Sur la troisième question le Conseil pense que si l'arrestation de M. Bowring n'a eu lieu que par suite des dénonciations privées, il peut obliger le Ministère Public à lui faire connaître ses dénonciateurs, et que dans ce cas il aura contre ceux-ci une action en dommages. Ce droit est formellement garanti aux accusés reconnus innocens par l'article 358 du Code d'Instruction Criminelle.

(C.)

Copie.—Réponses aux Questions proposées.

1re—L'arrestation de M. Bowring a été parfaitement conforme aux lois de police et de sureté, qui en

France obligent tous ceux qui habitent le territoire nationaux ou étrangers indistinctivement. Que M. Bowring ait été arrêté par suite d'une dénonciation expresse contre sa personne ou d'office par les agens supérieurs ou inférieurs de la police administrative ou judiciaire, peu importe, pourvu que des indices suffisantes aient expliqué cette mesure à son égard, quelque rigoureuse qu'elle ait pu lui paraître. Ce serait un étrange erreur que de croire qu'il faille nécessairement des preuves toutes fortes pour s'assurer de la personne d'un individu. S'il en était ainsi, la plupart des vrais coupables dans tous les pays échapperaient non seulement à la condamnation, mais même à l'examen—et ainsi se trouveraient compromis les plus graves intérêts de toute société civilisée et compromis perpétuellement. Il suffit dans nos lois, comme il doit suffir en effet, que des indices autorisant presumption forte existent dans le cours de la recherche d'un délit pour que les Magistrats s'assurent de la personne d'un Citoyen. C'est là ce que dit par ses dispositions notre Code d'Instruction Criminelle. En cela il y a sans doute quelquefois un malheur pour l'innocence ; mais l'intérêt du plus grand nombre exige le sacrifice individuel du mécontentement ou du ressentiment d'une erreur commise. Les circonstances qui concernent M. Bowring dans l'ordonnance *qu'il n'y a lieu à suivre contre lui et de mise en liberté de sa personne* rendue par la Chambre du Conseil du Tribunal de première instance de la Seine sont d'une nature telle que les Magistrats, loin d'être recherchables à l'occasion de l'arrestation de cet étranger, auraient encouru le reproche de man-

quer à leurs devoirs s'ils eussent négligé la mesure dont il a été momentanément l'objet. On ne retracera pas ici ces circonstances ; mais on invite M. Bowring ou ses Conseils Anglais à méditer sur chacune d'elles ; et lors même qu'en fait il y a eu erreur, tous devront finir par reconnaître que jamais n'aurait été plus voisine de la vérité.

M. Bowring doit regarder donc comme constant que l'arrestation, qui lui a laissé un sentiment si douloureux, trouve sa justification dans les lois de France, et ne sauroit engendrer contre qui que ce soit au monde le reproche d'un acte arbitraire exercé envers lui.

2de—Il n'en est pas douteux que si l'arrestation dont il s'agit ne se trouvait pas pleinement justifiée par l'ensemble des indices qui en sont devenus la cause, et qui dès lors ont placé la mesure dans le cercle de faits et des actes légaux, M. Bowring en fut en droit d'agir en dommages intérêts contre ceux qui avaient disposé illégalement de sa liberté, ou contre ceux qui auraient fourni des indices faux et mensongers contre lui. Mais comme on a vu plus haut telle n'est pas sa position, il a existé des indices, des indices graves et même les plus graves. Ces indices résultent de faits constants qui ont suffi pour déterminer légalement d'arrestation. Tout est dit par là ; l'idée d'une action en dommages intérêts s'évanouit dès lors qu'il a existé des raisons légales d'arrêter la personne.

Il convient toute fois à faire connaître à M. Bowring une distinction nécessaire qui ont été à faire au cas supposé. Si un acte arbitrairement attentatoire à

sa liberté eût été commis par les magistrats, c'était l'action *en prise à partie* qui lui eut appartenu. Celle en dommages intérêts n'eut été son droit que contre l'auteur de la dénonciation par suite de la quelle sans motifs légaux son arrestation eut lieu.

3eme. Toutes les fois l'arrestation se demontre justifiée par les lois speciales et generales comme dans le cas particulier ; ni la dénonciation privée qui aurait été faite, ni encore moins la legitime suspicion de la haute Police par resultat desquelles l'arrestation de la personne aurait été ordonnée, ne pourrait ouvrir un droit soit à l'action à prise en partie soit à l'action en dommages intérêts. On sent assez que l'intérêt public commandant des mesures propres à assurer sa conservation, et la loi autorisant ces mesures, l'évenement d'une reconnaissance d'insuffisance des charges contre un prévenu ne saurait avoir la puissance de lui créer un moyen de reparation.

On a expliqué plus haut comment chacun devoit supporter cet inconvénient de l'état social racheté par tant d'autres avantages ; cet inconvénient au surplus dont lui-même il profite toutes les fois qu'une grave inquiétude publique force le magistrat à s'assurer d'un citoyen qui plus tard est reconnu n'avoir pas mérité que sa liberté lui soit plus long temps ravi.

En accordant toute son attention aux réponses que ses questions avaient provoquées, M. Bowring finira on l'espere par les approuver lui-même. Elles lui sont faites avec une entiere conviction que chacune d'elles est la seule qu'il put obtenir de quiconque porte le nom de jurisconsulte en France.

Paris, ce 4 Dec. 1822.

[*Translation.*]

(A.)

Question 1. Has the arrest of Mr. Bowring been legal and justifiable by the French jurisprudence and by the laws of the police and safety?

2. If Mr. — is of opinion, that the laws of France do not justify the arrest under the specific circumstances, do the same laws afford Mr. Bowring the remedy of an action of damages against the public officer who arrested him, or against him who caused him to be arrested; and who is the responsible person in this case?

3. Although Mr. — should be of opinion, that the arrest was justifiable under the special circumstances of the case, and that the arrest was caused by a secret denunciation, or by the suspicions of the high police, (both ill-founded, as it now appears,) could Mr. Bowring still have recourse to the aforesaid action, with any hope of success from the French Tribunals?

(B.)

Upon the first question, the Counsel perceives nothing in the papers submitted to him, which indicates any irregularity in the arrest of Mr. Bowring. The Counsel has not at present to examine if our criminal laws would not admit of great amelioration. He has not to explain himself as a writer on public law, but as an Advocate. In his private opinion, he thinks that the liberty of individuals in France requires other securities than those which exist; but having to pronounce upon what is, and not what ought to be, he declares that nothing has been done to Mr. Bowring

but what might have been done to a Frenchman in similar circumstances. Undoubtedly, upon investigation, Mr. Bowring has not been found guilty of any fault or crime, which could afterwards justify the rigour with which he was treated in the first instance. The decree of the Council Chamber itself acknowledges that it orders his liberation, *because* the infraction of the law, of which he was finally convicted, did not subject him to imprisonment.

But it is equally true that, though such has been the result, it appears from the decree that Mr. Bowring was, in the first instance, suspected of other crimes. Doubtless it is cruel to deprive a person of his liberty for suspicions, which in the end prove unfounded;—it is a rigour I do not approve *in abstracto*, but in the existing state of legislation, nothing is more frequent than arrests of this kind; and M. Fabvier, whose accomplice Mr. Bowring was suspected of being, is a striking proof. He has been declared innocent, and was nevertheless a prisoner till the day of the decision, when he was acquitted, and, indeed, for some days after, in order to ascertain if the Public Minister would appeal against the said decision.

Whilst, therefore, I regret that a person found innocent should lose his liberty for a longer or shorter period, I must nevertheless acknowledge that in the mode of arrest there has been nothing illegal, or which was not authorized by the law, against Mr. Bowring; nothing, in fact, which has not been practised against a Frenchman,—who has been equally the victim of unfounded suspicions,—M. Fabvier.

Upon the second Question, the Counsel could wish that our laws authorized an action of damages against

every public officer, who, abusing his power, should wantonly interfere with the liberty of any man, citizen or foreigner; but such is not the law in France. In the first place, the law does not permit the action of a citizen against a functionary, unless this functionary shall have acted in formal contravention of the law; and in the present instance there has been no informality in the mode of arrest. And secondly, this action can only be pursued by permission of the Council of State, which by the 75th Art. of the Imp. Const. Art. 8, must be applied to for authority to prosecute a functionary, against whom a charge is made; and this authority would certainly not be granted in the present case, there being no proof of the functionaries concerned in the arrest having exceeded their powers.

Upon the third Question, the Counsel thinks that if Mr. Bowring's arrest is the result of secret denunciations, he can oblige the public officer to reveal to him his informers, against whom he may bring an action of damages. This right is formally secured to persons accused, who may be declared innocent, by the Art. 358 of the Code of Criminal Instruction.

(C.)

COPY.—Answers to the proposed Questions.

1. Mr. Bowring's arrest has been strictly conformable to the laws of the police and safety, which in France apply equally to natives and foreigners residing in the kingdom. It is immaterial whether Mr. Bowring has been arrested in consequence of a secret denunciation against his person, or from the suspicions of the superior or inferior agents of the administrative

or judiciary police, provided that sufficient grounds have been assigned for this measure, however rigorous this may seem to him.

It would be a strange mistake to suppose, that full proofs must be obtained before arresting an individual. If such were the case, the greatest part of those really guilty would, in every country, escape not only condemnation, but even examination; and thus the greatest interests of civilized society would be compromised. It is sufficient for our laws, as indeed it ought to be, that grounds for strong presumption appear in the course of inquiry into a crime to authorize the magistrates to secure the person of a citizen. This is what our code of Criminal Instruction declares by its dispositions. This, no doubt, may be a misfortune for the innocent; but the interest of the greatest number requires from an individual that he should sacrifice his discontent or resentment for any error which may be committed. The circumstances concerning Mr. Bowring, in the decree of the Tribunal de la Premiere Instance de la Seine, that there were no charges against him, and that he should be set at liberty, are of such a nature that the magistrates, far from being blameable for the arrest, would have incurred the reproach of being wanting in their duty, had they neglected the measure from which he has momentarily suffered. These circumstances will not be here repeated; but Mr. Bowring and his English Counsel are desired to reflect upon each circumstance, and every one must finally acknowledge, that though it has proved a mistake, it was impossible to be nearer the truth.

Mr. Bowring should therefore be assured, that the arrest which has caused him such a painful sentiment,

is justified by the laws of France, and cannot authorize against any one the reproach of having acted arbitrarily towards him.

2. Without doubt, if the arrest we are speaking of had not been justified by the evidence, which was the cause of it, and which thus placed the measure amongst legal acts, Mr. Bowring might bring an action of damages against those who had illegally restrained, or those who might have arrested him illegally, or furnished false evidence against him : but, as we have seen already, such is not the case ; there have been grounds—strong grounds—indeed the strongest grounds. These result from facts detailed sufficient to justify the arrest. This comprises the whole case. The idea of an action of damages must be abandoned from the moment legal grounds for arresting a person exist.

It is desirable, however, to make known to Mr. Bowring a necessary distinction to be made in the supposed case. If an act, arbitrarily attacking his liberty, had been committed by the magistrates, he should have his redress by an action *en prise à partie*. That for damages could only have been his right against the author of the denunciation, in consequence of which his arrest took place, without legal motives.

In all cases when the arrest is proved to be justifiable by the general and special laws, as in this particular case, neither the private denunciation which may have been made, and far less the legitimate suspicion of the high police, in consequence of which the arrest has been ordered, can open a right of action, whether *en prise à partie*, or for damages. It is sufficiently clear, that the public interest requires the measures necessary for its preservation ; and as the law autho-

rizes these measures, the circumstance of insufficiency of evidence against a suspected person, gives him no means of redress. It has been explained above, how every body is bound to bear this inconvenience attached to the social state, which is repaid by so many benefits—this inconvenience, be it added, which turns to his own advantage, when serious alarm forces the magistrate to seize the person of a citizen, who may be hereafter found to deserve that his liberty should not be longer taken from him.

By giving all his attention to the answers which his questions have excited, Mr. Bowring, it is hoped, will finish, by approving them himself. They are made with an entire conviction, that no other would be given by any individual in France, who bears the name of a lawyer.

Paris, Dec. 4, 1822.

[Z]

Letter to Mr. Planta.

5, Jeffery Square, St. Mary Axe,
January, 3, 1823.

SIR,

I HOPE my impatience will not be deemed intrusive, if I inquire whether any further intelligence has been received from Sir Charles Stuart.

If the state of things is such as to promise ultimate redress, I should regret to have excited premature discussion, by any publication on the subject of the outrage; and if the same feeling exist in Mr. Canning's mind as before, I would by no means give a motive for observation or controversy.

May I venture to trouble you with the inclosed for Mr. Hamilton, whose kind services I cannot refer to without special gratitude?

I have the honour to be, Sir,
&c. &c.

(Signed) J. BOWRING.

Joseph Planta, Esq.

[A A]

MR. BACKHOUSE has the honour, in the absence of Mr. Planta from town, to acknowledge the receipt of Mr. Bowring's letter of yesterday, and to say, that Mr. Planta will be happy to see Mr. Bowring at this Office on Wednesday next, on the subject on which Mr. Bowring has written to him.

Foreign Office, Jan. 4, 1823.

[B B]

MR. PLANTA presents his compliments to Mr. Bowring, and with reference to his request to receive a communication in writing, on the subject treated of in his interview with him on Thursday last, begs to acquaint him that Mr. Canning will have no objection to direct such a communication to be made to him; but that he must first look through all the papers, as it will be some days before it can be transmitted to him.

Foreign Office, Jan. 13, 1823.

[C C]

Letter from Mr. Planta.

SIR,

Foreign Office, Jan. 18, 1823.

HAVING mentioned to Mr. Canning your request to receive in writing the substance of the communication which I made to you by his desire last week, he directs me to say, that he has not the smallest objection to my so addressing you; but that as what I stated to you on that occasion related only to that part of his correspondence with His Majesty's Ambassador at Paris, which had taken place subsequently to the last communication which had been made to you, it may be more satisfactory to you, that this letter should refer to the whole course of that correspondence.

It appeared to Mr. Canning, from the moment at which he was made acquainted with your detention and imprisonment, that the questions arising out of that event, for the consideration of your Government, were,

1st, Whether any thing had been done in your case, which was not warranted by the laws of France?

2dly, Whether, if the charges in your case should turn out to be unfounded, you being a British subject, would stand in the same situation as a French subject, with respect to the means (if any) of obtaining legal redress?

Upon the answers to these questions, it appeared to Mr. Canning to depend, whether there was a case for the extraordinary interference of your Government. Such an interference would not, he apprehended, be

justified by any harshness or imperfection in the state of French law, provided that law was impartially administered in your case.

With these views, His Majesty's Ambassador at Paris has been instructed, from time to time, not only to apply for every information from the French Government, but to propound to lawyers of the greatest reputation, in Paris, (one of them high in official situation, the other eminently distinguished in the party opposed to the Government,) certain queries, the answers to which show, that, whatever may have been the grounds of charge or suspicion against you, nothing was done in your case, to which a French subject, under the like charge or suspicion, would not have been liable, and that whatever remedy a French subject might have, if proceeded against unjustly on such charge or suspicion, is equally open to you.

Communication has been made to you of these queries, and of the answers to them.

Under these circumstances, it does not, of course, appear to Mr. Canning (advised, as of course it is his duty to be, by legal authority) that there is any ground for resorting in this case to the extraordinary course of a direct diplomatic remonstrance from Government to Government. Undoubtedly no such remonstrance would be admitted in this country, in a case where proceedings against a foreigner had been conducted agreeably to the laws of England.

You need not now be informed, that notwithstanding the necessity under which your Government felt itself of ascertaining carefully the grounds, on which alone claim for redress could be rested, before any such claim was brought forward, there has been no

remission of a constant and jealous attention to all the proceedings in your case, or of repeated application to the French Government to bring them to the point of trial or release. In like manner, if you should now think proper to resort to any course of legal proceeding which may be pointed out by the French lawyers, you shall receive every countenance from your Ambassador at Paris : meaning, thereby, that he shall be instructed to watch the proceedings, and to take care that your quality of a foreigner in France does not expose you to denial or delay of justice.

I am, Sir,

Your obedient servant,

(Signed) JOS. PLANTA, JUN.

John Bowring, Esq.

[D D]

THE following are some of a series of details showing the state of criminal judicature in France. They were written during my imprisonment by a highly valued and intelligent French friend—one of the many chivalric adventurers who entered the lists on my behalf ; and their publication was arrested by my return. I should have been glad to have translated the whole ; but his kind and ardent sympathies have often led him too far. The contrast between the French and English forms is very striking.

In England.

In France.

Arrest. Except in flagrante

Arrest. The Telegraph an-

In England.

delicto, the warrant must be signed by a magistrate—must bear the name and description of the individual, and state the grounds of his arrest.

Detention. The accused must first be examined by the Magistrate, who may release him on bail, except in some peculiar cases, in which the right is reserved to the Judges of the King's Bench. The accused may see his relatives, friends, and solicitors; he is not coerced or chained, unless he commit acts of violence.

Examinations. The examination is only of the witnesses. The accused may volunteer a confession, explanation, or defence; but he is always cautioned against prejudicing himself: the examination is public and in the presence of the accused, who is in practice, though not of right, assisted by his attorney or counsel, if he pleases. After the examination, the Magistrate either commits the accused to prison to be tried at the next assizes, or sets him at liberty upon bail to secure his appearance.

If there is any reason to doubt the validity of the commitment, the prisoner may have his writ of Habeas Corpus, and apply to any Judge of the superior courts for his discharge.

In France.

nounces '*Arrest Bourling*,' and he is arrested.

Detention. The Magistrate cannot release on bail (Article 113 of the Code). The accused are kept in solitary confinement as long as the Magistrate chooses. The exclusion of all persons is absolute. They may be loaded with chains at the caprice of the Magistrate. These abuses are not sanctioned by the laws, but they exist.

Articles 55, 127, 133. A Judge of *Instruction*, placed in the communal *arrondissement*, examines secretly and separately both the accused and witnesses. These inquisitorial interrogatories are renewed as often as the Judges of *Instruction* please. When they are over, the *procès verbaux* (details) are presented to the Chamber of Counsel, composed of three persons, of which the Judge is one; and if any one of the three think that the charge is sufficiently established, the Chamber declares this and sends the documents to the Advocate-General at the Royal Court, that the proceedings may be forwarded. The Judges of *Instruction* are of the lowest class, and immediately dependent on the Government.

In England.

Accusation. The bill or indictment is found by the Grand Jury of the next assizes, composed of 12 jurymen at least, and 23 at most. These are taken from a list of 24 of the principal landed proprietors of the county. This list is made and renewed by the Sheriff (*an annual officer who has no pay, and is always a large landed proprietor of the county*) at each of the county assizes. The Grand Jury examines the accusation or indictment and the documents, hears the witnesses, and after this finds or throws out the bill; in which latter case the accused is discharged, as he is also if no bill or accusation be presented against him to the Grand Jury.

Assizes. The Judges (two at least) are chosen from the bench, and occupy the highest judicial situations, to which they are appointed for life, and are not removable: their principal duty is, in truth, little more than seeing the strict observance of all the formal requirements of the law; the rest is with the Jury.

In France.

Accusation. Article 218. The Jury of Accusation has been replaced by a section of the Royal Court, called the Chamber of Accusation (*de mises en accusation*) composed of five Judges.

222, 225. The Advocate-General having examined the documents transmitted to him, transfers them to the Chamber of Accusation, requiring an indictment to be framed. The Chamber, solely on these documents, without seeing either the accused or the witnesses, without any other communication whatever, is compelled to pronounce at one sitting whether an indictment shall be framed; if so, the accused is transferred to the assizes.

The Judges depend entirely on the Government: the accused, up to this period of the proceedings, cannot decidedly know of what he is accused, nor who are his accusers, nor be confronted with the witnesses, nor bring forward any testimony in his favour.

Assizes. The Judges are named by Government, and are absolutely dependent on it. They are five, one is the president. Their functions will be hereafter described.

In England.

Jury. The King prepares a list, which cannot be more than 72 nor less than 48 freeholders to a small amount, taken indifferently from the list of freeholders of the county. The same Jury list serves for all the trials to be held at the assizes; and from among these the 12 who remain after each party has challenged those to whom he has ground of objection form the Jury. This list may be wholly quashed on challenge, if the Sheriff be in any way interested or liable to partiality from accidental circumstances. Where this is the case, the Jury list is made by the Coroner of the county, an officer elected by the suffrages of all the freeholders.

A foreigner has a right to have half the Jury consist of foreigners.

The 36 jurors from whom the conspirators of Saumur were as follow:

- 1 Des Places des Essarts, Council of Prefecture, and Knight of St. Louis
- 2 De Tudert, ditto
- 3 Dela Brosse, Colonel of the Staff of National Guard, and ditto
- 4 De Boitragon, ditto
- 5 De Montigny Pelletier, ditto
- 6 De Chesse, ditto
- 7 De Gréaume, formerly Grand Prévôt of La Vienne, and ditto
- 8 De la Sayette, ditto
- 9 De Lusignan, ditto
- 10 De Menou, Tobacco Commissioner, and ditto
- 11 De Vaucelles, Knight of St. Louis and the Holy Ghost

In France.

Jury. The Prefect of every department—a mere creature of Government, receiving a salary, and removable at will, makes out a list of 60 jurors, which he chooses from almost any rank. He sends this list to the President of Assize, equally dependent on Government, who strikes out according to his own caprice 24 of them.

The reduced list is then returned to the Prefect; and out of the 36, 12 are chosen by lot. An example shall be given of the scandalous way in which these lists are made up. The direct influence of the Crown in the formation of Juries, has, in truth, been claimed at the tribune as an essential prerogative of monarchy; but no remarks will have half the eloquence of a simple list of jurors appointed to try political offences.

The 12 were selected to try (no less than 38 individuals)

- 12 Du Vigier de Mirabal, ditto, and Captain in the National Guard
- 13 De Montégu, ditto
- 14 De Lalande, ditto
- 15 De la Côte Balthon, Mayor of Charais
- 16 De Pindré, ditto of Pindré
- 17 De Ferré, ditto of Montère
- 18 De Ceris, ditto of Ceveaux, a Vendean officer
- 19 De la Prade-Martin, ditto of Lussac
- 20 Des Courtils, ditto of S. Maurice
- 21 De Villemort, ditto of Villemort
- 22 Collet, ditto of d'Archigny
- 23 De Clam, ditto of his Commune
- 24 De Sages Bichier, Commissioner of Tobacco
- 25 D'Anglure, Director of Taxes
- 26 De la Salle Morin, Ex-Brigadier of the Body Guard
- 27 Du Patural
- 28 De Morthomé, a Vendean officer
- 29 De Savatte
- 30 The Marquis of Volvire
- 31 De Rouhant
- 32 De la Mardière
- 33 De la Salinière
- 34 Bréant
- 35 D'Eveillé
- 36 Venault.

That is to say, 30 nobles; of whom 14 are Knights of St. Louis, 9 Mayors, 8 Place-holders; only 4 who are not of noble families, of whom 1 is a Mayor.

In England.

Challenge. The challenge may be applied to all the list of jurors on account of interest or partiality in the officer who made it.—Individual challenge may be employed on any of the five following accounts:

1. *Propter honoris respectum*: the superior rank of the juror.

2. *Propter defectum*: want of qualification required in a juryman, as absolute depend-

In France.

Challenge. Articles 399, 402. The challenges may be applied as the names are called over; but they cannot be more than 24, if the 36 are present, or more than 18 if only 30 are present. These challenges are equally divided between the King's Advocate and the accused; but if the number of the jurors present is uneven, the accused have one challenge more than the accuser.

In England.

ence, servitude, or being an alien.

3. *Propter affectum* : suspicion of partiality.

4. *Propter delictum* : any circumstance affecting the honour or credit of the juror.

5. *Peremptory challenge* : in case of felony and high treason, which may be made without the assignment of a motive by the accused : only a limited number of these last challenges are allowed, independently of challenges to which one of the above motives may be attached. The whole list of jurors may thus be exhausted, or they may not attend ; and in that case the list may then be completed by the by-standers (*tales de circumstantibus*), such persons having the proper qualifications, and being equally submitted to challenge.

Trial. The opinions of the Jury decide. They are the masters of the trial. The King's Attorney or Counsel can only state the case in support of the accusation, and call witnesses to establish it. He has no judicial authority, being the Counsel conducting the prosecutor's case. The witnesses are cross-examined by Counsel for the accused. The Judges keep order, watch over the legal forms, explain the law to the Jury, and can in no cause shun publicity. The benefit

In France.

Whatever be the number of the accused, they have no greater number of challenges than if there were but one. Thus in the Saumur affair there was only one challenge for three individuals.

But if the King's Advocate renounces his right of challenge, it does not revert to the accused, who cannot on that account challenge a greater number.

Thus, of the 60 jurors which the Government originally selects by its Prefects, 24 may be challenged by its President, and 12 by its Advocate-General or Royal. The accused may only challenge 12 in all. What a fearful chance !

Trial. Articles 267, 270.

The presiding Judge is the sovereign of the trial. He has a discretionary power, which he employs as he pleases for the discovery of the truth, or for the prolongation of the trial.

276, 330. The King's Advocate and the Advocate-General share this power : they insult the accused, interrupt the barristers, impose silence, punish them, even deprive them of their robes, and intimidate witnesses at pleasure. The trial of the Ro-

In England.

of every doubt is given to the accused. He is not examined; and if he chooses to say any thing, is always cautioned by the Judge against committing himself or prejudicing his defence by any unguarded admissions.

In France.

chelle conspirators (as they were called) is pregnant with remarkable examples; but they may also be found in the Saumur affair, to which a reference has been already made.

Two witnesses, M. Baillargeau, merchant at Saumur, and M. Bourgoïn, a wine merchant, were summoned on behalf of Dr. Caffé, who was tried as a participator in the above plot. The first declared that Caffé was invited to breakfast with him on the 24th February (the day on which Saumur was attacked); that he came between 12 and 1 o'clock, and continued with him till between 4 and 5.

The public accuser, or Advocate-General, Mangin Cainville, rose up and interrupted the witness, proclaiming that it was notorious that the deposition of the witness was false.

M. Baillargeau re-asserted its truth, and offered to confirm it by the testimony of no less than eight persons.

"Hold your tongue," exclaimed Mangin, and immediately demanded the arrest and trial of M. Baillargeau for perjury. The Court acceded to the demand.

The second witness confirmed the testimony of the first: he too was arrested.

Caffé was condemned to death; but before his sen-

In England.

Verdict. The Jury pronounces the verdict, *vere dictum*.

If there is not unanimity for the condemnation, the accused is absolved.—The English principle is, that no man is to be taken to be guilty whom 12 of his equals do not unanimously pronounce so.

In France.

tence was confirmed by the Cassation Court, the two witnesses were tried and pronounced not guilty.

Caffé's execution was, however, proceeded in; but at the moment when he was to be led to the guillotine, he destroyed himself.

Such is the administration of justice by French tribunals!

Verdict. Articles 348, 351. The Jury declares the accused guilty or innocent. If the opinions are equal, the accused is declared not guilty. If there be a majority of one for the condemnation, the Judges pronounce like jurors, and their majority decides.

This is the system of criminal proceedings in France, which the French Government would apply to the stranger, too, who chances to visit that now unhappy land: so that the Englishman who, according to the laws of his country, cannot be condemned but by the honest and unanimous verdict of twelve free and independent fellow-citizens, may be sacrificed in France by the vote of ten individuals chosen by the Government, and often directly dependent upon it, and connected with its affairs, even though seven such individuals should declare him to be innocent.

If such a system could not be tolerated in a season of tranquil peace and prosperity, how much less is it to be endured in a time of revolutions, when the brands

of discord are burning ; when conflicting parties are engaged in active combat ; and especially when an implacable faction attacks every thing, however sacred, which threatens to disturb its tottering feebleness ; and when the administration of justice is nothing better than its open profanation ?

[E E]

Calais Prison, Oct. 8, 1822.

I HAVE marched up and down this foul abode,
 And read its tales of misery : 'tis a book
 Crowded with vice and virtue—with the excess
 Of vice and virtue. Heroes have been here,
 Who sit on heavenly summits now, and walk
 In the free fields of bliss. I will not ask
 What crimes have crowded here ; for men are wont
 To err most strangely when they talk of crime :
 The vilest go uncourged ; but I have seen
 More valour and more truth in these black cells
 Than ever honoured many a mighty one
 Whom million slaves have worshipped. I'll look
 round

And moralize, and for a moment chase
 The memory of wife and children—thoughts
 Too bitter for a prisoner, and for one
 Whose prison is not in his father land.
 The cold walls on one side were mouldered o'er,
 And the damp sweat exuded. Stains of blood
 Were sprinkled on the other : filth of years
 Covered the floor. There was a sickening stench,
 Nauseous as the plague's breath. The bars, the bolts

Seemed made for giants; and the heavy keys
 Were shaken, as with a malevolent joy,
 By the unhearted keeper. Vermin tribes
 Luxuriated: it was a palace to them.
 I imaged to myself the various minds,
 That had left transcripts on these prison-walls;
 But some had been erased, as if rebuke
 Had cried "Shame" to the conscience; some were
 left

Broken, or finished tremblingly. Remorse,
 Or fear, or levity, had checked the hand;
 Yet like Belshazzar's silent warning, they
 Spoke loud as thunder. One had written there,
 "Take ye my life who took my hope away."
 Another told his history: "I was born
 "In Brabant and was happy: I had filled
 "A soldier's place with honour, but I fled,
 "Deluded by a false one's charms, and built
 "My heavy pile of misery. Oft I turned
 "An ear of deafness to the voice of truth,
 "And whelmed me in my own most obstinate will.
 "Thy coward penitence is worthless now.
 "O miserable mortal! bow thy head,
 "Suffer and sink." The line was blended there
 With other exclamations: "What! is this
 "A fit abode for virtue? linked to crime,
 "Married to infamy. Great Heaven! I swear
 "I swear the charge is false!" and so it was:
 'Twas but the agony of a youthful soul
 Dreading contamination. One had drawn
 Rude boughs of intertwining olive. One
 Had sketched a drooping ash, bent o'er a stream,
 And hung gold weights upon its branches: "Men

"Are bowed by circumstance." 'Twas eloquent :
 I felt it, and I looked again ; I saw
 There was an altar hid behind the tree,
 On which a fire was burning. 'Twas a dream
 Of the pure days of youth. "Man is trained
 "To perfect wisdom but by perfect woe—
 "Thou must be more unfortunate!" How oft
 Have I, with listening ear and busy sense,
 Waited upon your moralizers! Come,
 Classical proud one! Come and show a page
 In all thy catalogue, so rich in lore,
 As this cold wall. There were two trembling lines
 From one just hurrying to the scaffold: "I
 "Now end my course and perish. It were sweet
 "To die in England!" Carved upon the floor,
 There were most strange and hieroglyphic forms,
 Which spoke of British captains—British crews,
 Captured and there confined. Some humourous jests
 Were blended—had my mind been tuned to mirth.
 I was not mournful—I could not be gay.
 I heaved no sigh—I could awake no smile:
 Wife, children—perhaps. I'll muse no more. Alas!
 I am a prisoner.

THE END.

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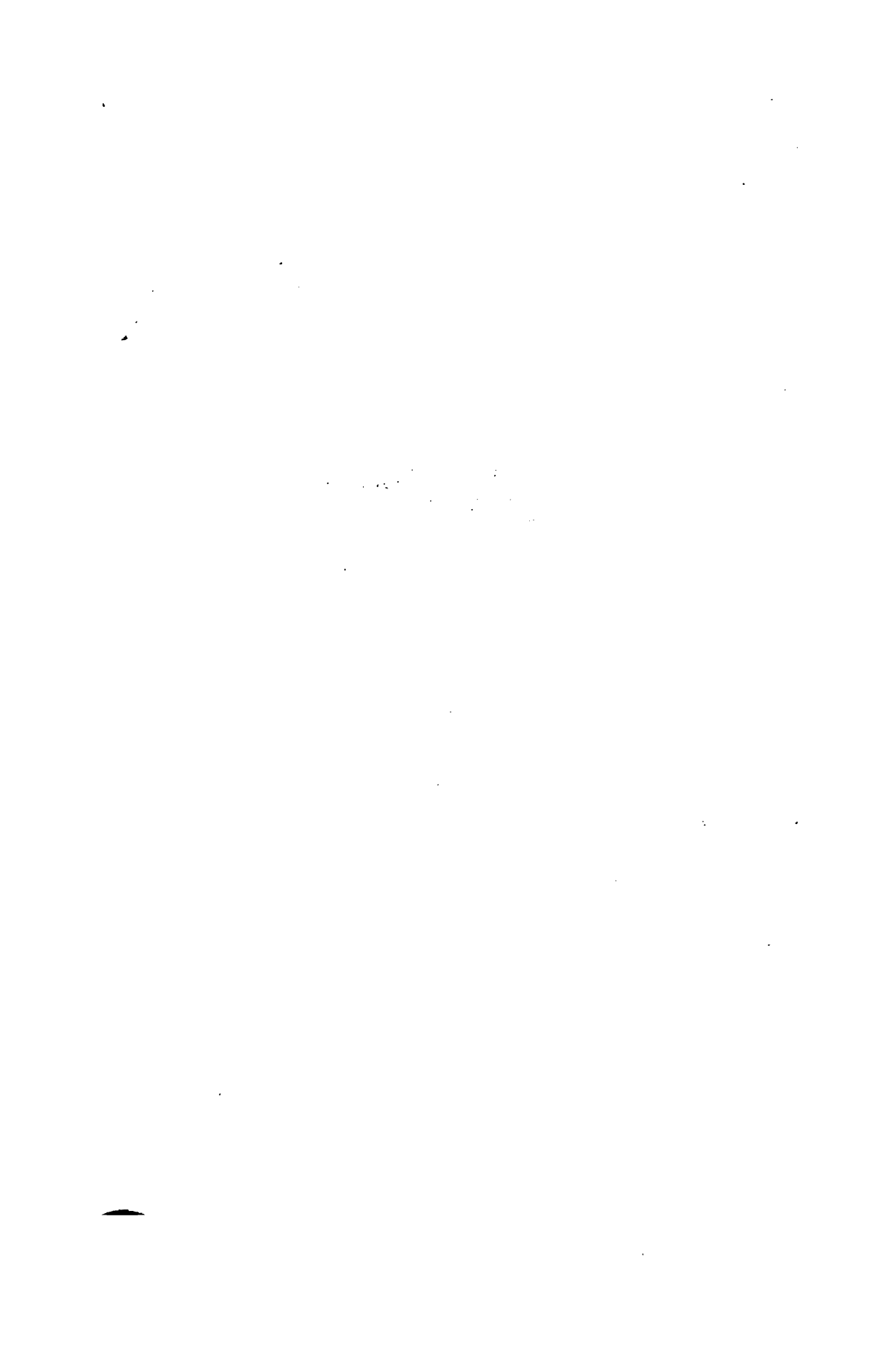
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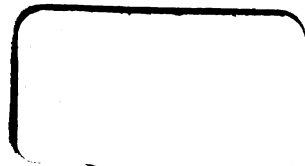
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